
(2015) 09 MAD CK 0082
In the Madras High Court
Case No : W.P. No. 31720 of 2014

Rajan Ran

APPELLANT

Vs

CESTAT, New Delhi

RESPONDENT

Date of Decision : 22-09-2015

Acts Referred:

Citation : (2015) 325 ELT 873

Hon'ble Judges : R. Mahadevan, J.

Bench : Single Bench

Advocate : P. Solomon Francis, for the Appellant; V. Sundareswaran, SSC, for the Respondent

Judgement

R. Mahadevan, J.—The writ petition is filed for the issuance of a writ of mandamus directing the 1st respondent to transfer the appeal filed by the petitioner in Appeal No. C/308/2010 pending before the 2nd respondent to the file of any other bench and to dispose of the same in accordance with law. The petitioner who is a person of Indian origin and a citizen of Singapore brought with him 10 Kgs. of gold purchased by him. On his arrival, he was interrogated about the gold and later on, a case was foisted against him. Further, a show cause notice was issued to the petitioner on 10-8-2009 for which the petitioner gave a reply on 19-9-2009 and also participated in the adjudication proceedings before the third respondent. Thereafter, the third respondent by an order dated 19-4-2010 confiscated the gold brought by the petitioner and he had also imposed penalty on the petitioner.

2. Against the seizure of gold and proceedings of confiscation of the same, an appeal in C/308/2010 was filed before the second respondent. Along with the appeal, the petitioner filed an application of waiver of penalty, which was granted by the CESTAT on condition to deposit a sum of Rs. 10,00,000/- which the petitioner complied. In the meantime, the petitioner moved an application for early hearing and the same was dismissed on 11-3-2013. Further more, the officer in charge at the time of seizure of goods happens to be a member in the

Presiding Bench due to change in the coram. Hence, an application for transferring the case to some other Bench was moved on 27-6-2014 followed by a reminder dated 28-11-2014. Since there is no positive response to the said communications, the present writ petition has been filed for the relief as stated above.

3. The learned counsel appearing for the petitioner submitted that the petitioner's appeal can be heard and disposed of on merits by any one of the Benches, since the present Bench cannot take up the same.

4. On instructions, the learned senior standing counsel appearing on behalf of the department submitted that now, there is a newly constituted Bench wherein the matter similar to that of the petitioner are going to be listed for hearing. The said submission is recorded.

5. In view of the above, the petitioner is directed to make out an application for hearing the appeal before the newly constituted Bench and on such filing, the concerned Bench shall take up the Appeal No. C/308/2010 and hear the same on merits and in accordance with law after affording due opportunities to the petitioner and dispose the appeal within a period of six weeks. The writ petition is disposed of accordingly. No costs.