
(1974) 09 MAD CK 0022
In the Madras High Court
Case No : Writ Petition No. 2001/74

V.R. Subbaih, Murgun Trading Agency APPELLANT
Vs
Assistant Collector of Central Excise: I.D.O. RESPONDENT

Date of Decision : 19-09-1974

Acts Referred:

Central Excises and Salt Act, 1944 — Section 33

Citation : (1978) 2 ELT 227

Hon'ble Judges : Ismail, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ismail, J.—This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and other material papers

filed herein and upon hearing the arguments of Mr. K.C. Rajappa, Advocate for the petitioner, the court made the following order :

2. The petitioner prays for the issue of a writ of mandamus directing the respondents, namely, the Asst. Collector of C.E., I.D.O. Sivakasi and the

Inspector of C.E., Prev. Group Office of the Collr. of C.E., New Delhi to release the goods and hand over to the petitioner 1000 bundles of safety

matches seized on 29.08.72 at Delhi Lahori gate station and now lying with the second respondent, valued at Rs. 34.000/- under the provisions of

C.E. Act and Rules 1944.

3. The petitioner contends that he purchased these matches from different manufacturers in Sivakasi and despatched then to one M/s, Mahavir

Trading Corporation at Delhi, pursuant to a contract entered into between them, that the said 1000 bundles were seized at Lahori Gate Railway

station on 29.08.72, that subsequently the petitioner's petition to get the goods released on furnishing security was not ordered and that therefore

the petitioner is entitled to the writ of mandamus prayed for. The learned counsel for the petitioner admits that on 28.2.74 an adjudication order

has been passed under which the goods have been confiscated to the Govt. In view of the existence of this order, no writ of mandamus can be

issued to the respondent directing them to return the goods to the petitioner. Now, two things are clear. One is that the goods themselves have not

been seized from the custody of the petitioner and the petitioner himself admits that they were seized at Delhi Lahori gate Railway station, when the

goods were sent by the petitioner to Mrs. Mahavir Trading Co., New Delhi. Secondly there has been an order confiscating the identical goods in

question. The only contention that the learned counsel for the petitioner put forward is that the petitioner is not a party to that order. But that does

not in any way affect the situation. So long as that order is there, without getting rid of that order, the petitioner cannot ask for a mandamus for

return of the goods to him, particularly when the goods themselves were not seized directly from petitioner.

Hence, the writ petition is dismissed.