

Gopal Gupta vs Principal Additional Director ... on 12 April, 2021

Author: Mukta Gupta

Bench: Mukta Gupta

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(CRL) 821/2021
CRL.M.A. 5945/2021
CRL.M.A. 5946/2021

GOPAL GUPTA

Represented by:

..... Petitioner

Mr. Madhav Khurana, Mr. Humraz
Bir Singh, Ms. Jyoti Taneja, Ms. Riya
Arora, Ms. Sayesha Suri, Mr. Samuel
Lalrochan Khobung, Ms. Chahat
Aggarwal and Ms. Aashna Suri,
Advocates.

versus

PRINCIPAL ADDITIONAL DIRECTOR GENERAL,
DIRECTORATE OF REVENUE
INTELLIGENCE NEW DELHI

..... Respondent

Represented by: Mr. Ajit Sharma, Advocate.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA
ORDER

% 12.04.2021 The hearing has been conducted through Video Conference. CRL.M.A. 5946/2021 (Exemption)

1. Exemption allowed subject to just exceptions.

2. Application is disposed of.

W.P.(CRL) 821/2021

1. By this petition, the petitioner challenges the Show Cause Notice dated 26th September, 2019 issued to the petitioner subsequent to the arrest, search and seizure dated 24th April, 2019 and 25th April, 2019 as also seeks W.P. (CRL.) 821/2021 PageGUPTA setting aside of the proceedings under Sections 104, 100//102, 105, 110 and 124 of the Customs Act and the proceedings emanating therefrom, in view of the decision of the Hon'ble Supreme Court rendered in Civil Appeal No.1827/2018 titled as M/s Canon India Private Limited vs. Commissioner of Customs decided on 9th March, 2021, wherein the Hon'ble Supreme Court categorically held that if it was intended that officers of the Directorate of Revenue Intelligence who are officers of Central Government should be entrusted with functions of the Customs officers, it was imperative that the Central Government

should have done so in exercise of its powers under Section 6 of the Act. Dealing with the notification dated 2nd May, 2012, relied upon by the respondent, which confers the various functions referred to in Column (3) of the notification under the Customs Act on officers referred to in Column (2), the Hon'ble Supreme Court held that the Section under which the notification has been issued does not confer any power on any authority to entrust any functions to the officers. It was also held that the notification which purports to entrust functions as proper officer under the Customs Act has been issued by the Central Board of Excise and Customs in exercise of non-existing power under Section 2 (34) of the Customs Act, hence was invalid.

2. Notice.

3. Learned counsel appearing on behalf of the respondent accepts notice.

4. Reply affidavit be filed within four weeks. Rejoinder affidavit be filed within three weeks thereafter.

5. List this petition on 26th July, 2021.

6. Till the next date of hearing, the proceedings pursuant to the Show Cause Notice dated 26th September, 2019 arising out of file bearing No. W.P. (CRL.) 821/2021 PageGUPTA F.No. DRI/HQ-GI/338/VI/ENQ-2/INT-NIL/2019 before the respondent are stayed.

7. Order be uploaded on the website of this Court.

MUKTA GUPTA, J.

APRIL 12, 2021
PB

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