

Manish Chopra vs Principal Additional Director ... on 26 March, 2025

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 26th

+ W.P. (C) 9432/2024

MANISH CHOPRA

Through:

.....
Mr. Chinmaya Seth, Mr.

Ms. Palak Mathur and Mr.

Phore, Advocates.

versus

PRINCIPAL ADDITIONAL DIRECTOR GENERAL,
DIRECTORATE OF REVENUE INTELLIGENCE
(HEADQUARTERS) NEW DELHI & ANR.

.....Respondents

Through: Ms. Suhani Mathur and Mr. Jai
Ahuja, Advocates for Mr. Harpreet
Singh, Senior Standing Counsel.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The present petition has been filed on behalf of the Petitioner-Manish Chopra under Article 226 of the Constitution of India inter alia seeking issuance of an appropriate writ for setting aside the seizure memo dated 14th February, 2024 vide which Rs.42,00,000/- of the Petitioner was seized. Further, the Petitioner prays for release of the said amount.

3. The challenge in this petition is to the seizure of a sum of Rs.42,00,000/- which has been effected by the Directorate of Revenue Intelligence ('DRI') under Section 110 read with Section 121 of the Customs Act, 1962 on the ground that the same was sale proceeds of smuggled goods.

4. The case of the Respondent is that the Petitioner upon importing certain goods from China, had undervalued the same. Based on the said allegation, a search was conducted at the Petitioner's premises being, House No. 36, UGF, Sandesh Vihar, Pitampura, New Delhi-110034 on 14th February, 2024 during which the amount of Rs.42,00,000/- was found. Upon the Petitioner not being able to satisfactorily explain the source of the said amount, the Respondent seized the same

under the presumption that it was sale proceeds from undervalued goods which is liable for confiscation under Section 111(m) read with Section 2(39) of Customs Act, 1962.

5. On the last date of hearing i.e., 20th March, 2025 ld. Counsel for the Petitioner appeared and submitted there is nothing on record to show any connection between the alleged under- valuation of goods and the seized cash.

6. Further, on the said date, ld. Counsel for the Petitioner placed reliance upon the decision of the Division Bench of this Court in Euroasia Global vs. Commissioner of Customs, New Delhi dated 18th September, 2007 in W.P.(C) 5677/2007. The operative portion of Euroasia (Supra) reads as under:

"19. Even though there is a dispute in respect of the correct value of the goods, that does not necessarily classify the goods as smuggled goods. The goods were imported by the Petitioner in accordance with law and were cleared by the Customs authorities in accordance with law. The goods may have been grossly underinvoiced but that is a different matter altogether and will have to be decided by the authorities as and when they initiate adjudication proceedings against the Petitioner *****

24. For the reasons mentioned above, we are of the view that the Petitioner is also entitled to the second prayer made, namely, for the release of Indian currency of Rs. 23.90 lakhs as well as freedom from the requirement to keep a minimum balance amount of Rs. 4.89 lakhs in the bank accounts of the Petitioner."

7. The said judgment has also been upheld by the Supreme Court in its order dated 13th September, 2021 in Civil Appeal No. 2058/2009 titled, Commissioner of Customs, New Delhi & Anr. v. M/s Euroasia Global.

8. On 20th March, 2025 ld. Counsel for the Petitioner also submitted that Rs.42,00,000/- of the Petitioner is lying with the Respondent, the same may be released as the Petitioner is going through cash crunch, subject to any condition as the Court may decide.

9. In view thereof, ld. Counsel for the Respondent was directed to seek instructions in the matter.

10. Today, ld. Counsel has sought instructions. Mr. Vinay Nayak, Deputy Director (DRI) has appeared along with ld. Counsel and submits that the notice under Section 121 of the Customs Act, 1962 has been issued in respect of the seizure of the said amount. However, no show cause notice in respect of the alleged under-valuation has yet been issued.

11. Ld. Counsel for the Petitioner points out that in the counter affidavit, the clear stand of the Respondent is that the total value of goods imported was Rs. 4,00,00,000/- and the under valuation could be to the tune of Rs. 1 crore. The relevant portion is extracted below :-

"It is pertinent to mention that the petitioner through his firm M/s NRG trading Company had imported similar goods (i.e. MP5 player display, MP5 Player and its

accessories) of total value 4 crores (approx.) and it is suspected that the petitioner is indulged in undervaluation in the past consignment as well which may have taken the evasion of customs duty to the tune of Rs. 1 crores (Approx)."

12. In the overall facts, it is observed that though a notice under Section 121 of the Customs Act, 1962 has already been issued to the Petitioner in respect of the amounts seized from the Petitioner, the issue would still not be resolved unless and until show cause notice is issued qua the under valuation, which is the main grievance of the Customs Department. Therefore, let the show cause notice be issued in accordance with law in respect to the alleged under valuation of the Petitioner. The same be issued within the time frame prescribed under the said Act. The notice already issued to the Petitioner under Section 121 of the Customs Act, 1962 with respect to the amount seized, shall also be taken up along with the said notice for adjudication and a comprehensive order shall be passed by the Department.

13. Under these circumstances, considering the amount seized from the Petitioner is alleged to be the customs duty evaded by the Petitioner, this Court is of the opinion that bearing in mind the amount of pre-deposit which is usually charged in terms of Section 129E of the Customs Act, 1962, the interest of justice would be served by directing the Department to retain Rs.5 lakhs and a refund of Rs. 37 lakhs to the Petitioner, subject to the condition that if there is any adjudication by the Customs Department in respect of the alleged under valuation, the Petitioner would be bound to pay the duty that may be levied on the Petitioner in respect of the said imports. The said sum of Rs. 5 lakhs shall be maintained by the Department in a FDR on auto-

renewal mode so that interest is earned on the same.

14. An undertaking to this effect of the Petitioner is recorded by this Court. The undertaking shall be treated as an undertaking to this Court, subject to any legal remedies.

15. With these observations, the present writ petition is disposed of. All pending application(s), if any, also stand disposed of.

PRATHIBA M. SINGH JUDGE RAJNEESH KUMAR GUPTA JUDGE MARCH 26, 2025/nd/rks