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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2243 of 2022

Vijay Baid @ Vicky S/o Shantilal Baid Aged About 36 Years Proprietor Of M/s Jewelers Jasraj Shantilal Baid, R/o Ward No. 31, Nandai Road, Kuwan Chowk, In Front Of Old Kanji House, District : Rajnandgaon, Chhattisgarh

---- Petitioner

Versus

1. Union Of India Through The Additional Director General, Directorate Of Revenue Intelligence (DRI), Government Of India, Indore Zonal Unit, 1st Floor, Bsnl Telephone Exchange Building, Transport Nagar Indore, District - Indore, Madhya Pradesh
2. Deputy Director, Directorate Of Revenue Intelligence, Government Of India, Raipur Regional Unit, 30, Panchsheel Nagar, Civil Lines, Raipur, District : Raipur, Chhattisgarh
3. Additional/ Joint Commissioner Of Customs B-Zone, 3rd Floor, 12/27 And 12/28, Village Pipliyakumar, Nipania, Indore District - Indore (M.P.) 452010

---- Respondents

11/05/2022	<p>Shri Vijay M. Adwani, Advocate with Shri Manish Upadhyay and Shri A.M. Sachwani, counsel for the petitioner.</p> <p>Shri Ramakant Mishra, Asst. Solicitor General for India/respondents.</p> <p>Heard.</p> <p>Shri Ramakant Mishra, A.S.G. accepts notice for respondents. He prays for and is granted three weeks time to file reply to writ petition as well as application for grant of interim relief.</p> <p>Also heard on IA No.2, which is an application for grant of interim relief.</p> <p>Learned counsel for the petitioner would submit that pursuant to arrest made by Directorate of Revenue Intelligence (DRI) on 01.05.2021 of two persons at Railway Station- Raipur, DRI further searched the house of</p>

petitioner on the same date and have seized gold bar, silver ingots and fine silver and cash amount also amounting to Rs.32 lakhs. Seizure proceedings was put to challenge by the petitioner before this Court by way of filing writ petition bearing WPC No.5388 of 2021, which was finally decided vide order dated 02.03.2022 whereby the notice under Section 110 (2) of the Customs Act, 1962 (for short "*the Act of 1962*") for extending the time for investigation was quashed and subsequent notices/summons issued to the petitioner therein have been held to be without any authority of law. It is further contended that in terms of Section 110 (2) of the Act of 1962, if proceedings have not been concluded within prescribed period, the investigation agency have to mandatorily return back the goods which were taken into possession from the petitioner but that was not done till date. Order dated 02.03.2022 passed by the learned Single Judge was put to challenge by respondent-Department along with the application for grant of interim relief but till date, no interim relief has been granted in their favour and the order dated 02.03.2022 is still in existence and force. It is contended that after passing of order dated 02.03.2022, as on the date, proceedings of search and seizure was quashed, no further proceedings under under Section 124 of the Act of 1962 which is the proceedings for confiscation of good seized can be initiated. He submits that pending consideration of this writ petition, awaiting reply of respondents, further proceedings pursuant to the notice under Section 124 of the Act of 1962 may be stayed.

Shri Ramakant Mishra, learned ASG for the respondents would submit that though there is order in favour of petitioner in WPC No.5388 of 2021 but the said order is under challenge before the Division Bench in Writ Appeal No.211 of 2022 and is pending consideration. Hence, proceedings have not attained finality. He also contended that the amendment has been brought into the Act of 1962 by virtue of Notification dated 31.03.2022 and in that amended provision, there is no mention of Proper Officer and the amendment has been made applicable with retrospective effect. Hence the interim relief as sought for by the petitioner may not be granted at this stage.

Taking into consideration the facts and circumstances of the case,

taking into consideration the submission made by learned counsel for the petitioner based on order dated 02.03.2022 passed by the High Court in WPC No.5388 of 2021 whereby the notice under Section 110 (2) of the Act of 1962 was held to be without any authority of law, the notice was quashed, it is directed that respondents shall not proceed any further pursuant to notice dated 23.04.2022 (Annexure P-1) issued under Section 124 of the Act of 1962, till the next date of hearing.

List this case after four weeks.

Sd/-
(Parth Prateem Sahu)
Judge

Praveen