

BHP (India) P. Ltd. Vs Dy. Dir., Directorate of Revenue Intelligence

Court: Calcutta High Court

Date of Decision: July 13, 1999

Acts Referred: Customs Act, 1962 & Section 110, 124

Citation: (2000) 67 ECC 37 : (1999) 113 ELT 383

Hon'ble Judges: Ajoy Nath Ray, J

Bench: Single Bench

Advocate: Ajit Kumar Panja, for the Appellant; N.C. Roychoudhury, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Ajoy Nath Ray, J.

This is a writ application challenging a notice sent by one Amitabh Kumar, Deputy Director, to the Manager, Bank of

America, Barakhamba Road, New Delhi.

2. The substance of the said communication as concerns the writ petitioner causes a practical total freezing of Account No. 124204 held by the

writ petitioner in the Calcutta Branch of the said Bank situated at 8, India Exchange Place, within the local limits of the original jurisdiction of this

Court.

3. The writ petition proceeds on the basis that the writ petitioners are not at all concerned with investigations which are going on with three other

Accounts Nos. which are mentioned in the impugned notice, dated sometime in June, 1999.

4. Mr. Panja appearing for the writ petitioner prayed for interim order on several grounds, each of which was resisted by Mr. Roy Chowdhury.

Authorities were cited on both sides.

5. The order and observations herein, however worded, are prima facie and without prejudice. The impugned notice is ex-facie issued u/s 110 of

the Customs Act, 1962.

6. Under the first sub-section of that section, seizure is permitted if there is reason to believe that the goods seized are liable to confiscation.

7. If seizure is on this ground, notice has to be given u/s 124 within six months and in case of default, the seizure is lifted.

8. Under the third sub-section of that section, however, seizure is also permitted of documents and things which might be relevant to proceedings

under the Customs Act. This sub-section deals with collection of evidence by seizure.

9. The impugned notice is extremely cursory. Why the investigation is going on in regard to the other three accounts is not discernible; there is a

statement that the writ petitioner's account had both debits and credits in relation to the three accounts under investigation. However, the notice

notably fails to mention whether the seizure is being effected for the purpose of collecting evidence or for the purposes of blocking the writ

petitioner's money on the reason that it is believed that such money might be later liable to confiscation.

10. The seizures under the two sub-sections would have two different courses. If Sub-section (3) is invoked, the blockade of the account

excepting for inflow of export credit is wholly impermissible. If Sub-section (1) is invoked, it has to be ex-facie made clear.

11. Just as the Customs Authorities have large powers to impose orders of seizure, ordinary citizens also have a right to know why their accounts

or goods are being seized. The matter should not be left vague or capable of double interpretation later on. Although full reasons for belief need not

be spelt out, yet imputations of illegality, if any and invocation of Sub-section (1) must specifically be made in the notice, if not by mention of Sub-

section (1), at least by mention of its substance.

12. As against this cursory notice which deals with no fewer than twelve accounts, an interim order is most certainly called for. Rule as prayed for.

Returnable 12 weeks hence. Pending the disposal of the Rule, there shall be interim orders in terms of prayers (g) and (h) of the writ petition,

limited, however to the writ petitioner only and to the said account only of the writ petitioner.

13. Mr. Roy Chowdhury prays for stay of operation of this order, but the prayer is turned down.

14. Parties and all others concerned to act on a xerox signed copy of this Dictated Order on the usual undertakings.