

GIB/TN/J.Sheikh Parith/13-12-2019/HC-109**High Court Category :** Others**State :** Tamil Nadu**Order No.:** GIB/TN/J.Sheikh Parith/13-12-2019/HC-109**Name of Entry :**

J.Sheikh Parith

Date : 13-12-2019**Breif Issue :****Facts & Issue of the case**

Petitioner “J.Sheikh Parith” has filed Writ petition calling for the records connected with impugned notice of Directorate of Revenue Intelligence , quash the same, holding the impugned notice to be unlawful and against the principles of natural justice and consequently direct the respondent to provide the documents and details as sought for by the petitioner. The said show cause notice was issued by the Directorate of Revenue Intelligence to the Petitioner, M/s.Majestic Impex and M/s.SSP Enterprises and two others.

The case against the petitioner was that he used the Import-Export Code of M/s.Majestic Impex and M/s.SSP Enterprises and had cleared several consignments of goods by resorting to mis-declaration in the value of the imported goods. The show cause notice called upon the petitioner and other notices to show cause as to why the classification adopted, the exemption claimed and the value declared should not be rejected and to show cause as to why differential duty should not be demanded and why penalty should not be imposed on the notice.

Petitioner further states that DRI had recorded statements from several officers of the customs department but has not furnished the same and therefore in absence of these documents, the petitioner is unable to effectively defend himself in the show cause notice. So, Petitioner had requested for 3 months to file a reply to the notice and requested the DRI to return the documents seized to enable it to prepare the reply.

It was also submitted by the Petitioner that during the interregnum **Section 28 of the Customs Act, 1962** has been amended with effect from 28.3.2018 with the **insertion/substitution of sub clause (9)** to Section 28 of the Customs Act, 1962 and SCN is deemed to have abated in absence of adjudication and therefore the Petitioner has prayed for a declaration declaring the SCN proceedings as having been abated.

Decision of Advance Ruling Authority :**Decision**

The Hon'ble High Court while disposing the petition held that, no writ petition can be entertained to quash a hearing of notice as it is not an order. At the same time, it should be remembered that the DRI as an investigative agency cannot retain the seized documents. Once it completes investigation and issuing of Show Cause Notice, it should return the same or give back photo copy to the person to whom it belonged and also directed that petitioner be allowed to file their reply to the Show Cause Notice within a period of 90 days (latest by March 31, 2020) without any further delay.