IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 5-11-2015

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
AND
THE HONOURABLE MRS.JUSTICE S.VIMALA

W.A.No.1319 & 1320 of 2015
and
M.P.Nos.1 and 2 of 2015

The Commissioner of Customs,
(Sea Port/Import),
Customs House No.60, Rajaji Salai,
Chennai-600 001. ... Appellant

Versus

M/s.Sanco Trans Limited,
Rep. By its Whole Time Director,
MrU.Udayabhaskar Reddy,
Old No.90/New No.46, Moore Street,
Chennai-600 001. ... Respondent

Prayer: Appeals made under Section 15 of the Letters Patent against the common order, dated 11.6.2015, made in W.P.Nos.7188 and 7189 of 2015.

PRAYER IN WP.7188 OF 2015: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to F.No.R.-146/CHA on the file of the respondent and quash the show cause notice F.No.R-146/CHA dated 05/03/2015.

PRAYER IN WP.7189 OF 2015: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondent, to renew the Customs Broker Licence of the petitioner based on its application dated 09/01/2015.

For Appellant : Mr.G.Rajagopalan
Additional Solicitor General for
Mr.V.Sundareswaran

For Respondent : Mr.T.V.Ramanujam,
Senior Counsel for
Mr.Manoj Sreevalsan

COMMON JUDGMENT

These appeals have been filed against the common order passed by the learned single Judge, dated 11.6.2015, made in W.P.Nos.7188 and 7189 of 2015.

2. The Writ Petition, in w.P.No.7188 of 2015, had been filed, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the show cause notice, issued by the respondent therein in F.No.R.-146/CHA, dated 5.3.2015, and to quash the said show cause notice.

3. The Writ Petition, in W.P.No.7189 of 2015, had been filed praying that this Court may be pleased issue a Writ of Mandamus, directing the respondent to renew the Customs Broker Licence of the petitioner therein, based on its application, dated 9.1.2015.

4. The respondent in the said Writ Petitions is the appellant in the present Writ Appeals. The respondent in the present Writ Appeals had filed the Writ Petition in W.P.Nos.7188 of 2015, challenging the show cause notice issued by the Commissioner of Customs (Seaport/Imports), Chennai, dated 5.3.2015, asking the respondent herein to show cause as to why the licence issued to it should not be revoked and the security deposit made by it should not be forfeited, or a penalty be imposed, under Regulation 18 of the Customs Brokers Licensing Regulations, 2013, for its failure to comply with the provisions of the said Regulations.

5. It had been stated that the impugned show cause notice cannot be sustained, as it had been issued by the appellant in violation of the period of limitation prescribed, under Section 20(1) of the Customs Brokers Licensing Regulations, 2013, which stipulates that the show cause notice should be issued, within a period of 90 days from the date of receipt of the offence report from the investigating agency. It had also been pointed out that the impugned show cause notice had been issued, on 5.3.2015,

after the expiry of nearly 3 years from the date of the alleged offence. It had also been stated that the respondent herein had not violated any of the Regulations and therefore, the appellant ought to have entertained the renewal application which had been submitted by the respondent herein, on 9.1.2015.

6. The learned single Judge had set aside the impugned show cause notice, dated 5.3.2015, stating that the said notice had been issued beyond the period of limitation prescribed, under Section 22(1) of the Customs House Agents Licensing Regulations, 2004. The learned Judge had further directed the appellant to renew the customs brokers licence of the respondent herein by considering its application, dated 9.1.2015, if it is in order, in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

7. Even though elaborate arguments had been heard from Mr.G.Rajagopalan, Additional Solicitor General, appearing on behalf of the appellant, as well as Mr.T.V.Ramanujam, Senior Counsel, appearing on behalf of the respondent, it is noted that the licence granted to the respondent herein had expired, on 24.2.2015, and therefore, the contentions raised by the learned counsels appearing on behalf of the parties concerned are academic in nature. It is noted that the respondent herein had submitted an application, dated 9.1.2015, for the renewal of Customs Brokers Licence. It is also noted that the impugned show cause notice issued by the appellant, dated 5.3.2015, has been issued, under Section 20(1) of the Customs Brokers Licensing Regulations, 2013, for the revocation of the licence issued to the respondent herein and for other consequences. In view of the fact that the licence issued to the respondent had expired on 24.2.2015, this court is not inclined to go into the merits of the matter in depth, except to state that the impugned notice issued by the appellant, dated 5.3.2015, is beyond the period of limitation of 90 days prescribed under the relevant Regulation, taking note of the fact that the investigation report had been received, by the appellant, on 29.5.2012, as stated in Paragraph-6 of the common counter affidavit filed by the respondent, on 26.10.2015. The appellant cannot rely on the order of the learned sinlge Judge, dated 30.1.2015, in W.P.No.15544 of 2012, for claiming extended time limit for the issuance of the show cause notice and for passing final orders, as the said order deals with the suspension of the licence of the respondent and not with the issue relating to the revocation of the licence. It is also noted that the learned single Judge, in his order, dated 11.6.2015, in W.P.Nos.7188 and 7189 of 2015, had made it clear that the appellant would have to consider the

application of the respondent, dated 9.1.2015, relating to the renewal of the Customs Brokers Licence, if it is in order, in accordance with law, within the time specified therein. Thus, it is clear that it would be open to the appellant to consider the application of the respondent for the renewal of the licence, taking into consideration all the relevant factors, prescribed by law. In such circumstances, this Court finds it appropriate to dismiss the above appeals, confirming the order of the learned single Judge, dated 11.6.2015, made in W.P.Nos.7188 and 7189 of 2015. Accordingly, the Writ Appeals stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

csh

To

The Commissioner of Customs,
(Sea Port/Import),
Customs House No.60, Rajaji Salai,
Chennai-600 001.

Writ Appeal No.1319 & 1320 of 2015

AD(CO)
CA(14/12/2015)