

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.9.2015

CORAM :

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE T.MATHIVANAN

Writ Appeal Nos.1359 and 1360 of 2015
& M.P.Nos.1,1 & 2 of 2015

The Commissioner of Customs
(Sea Port Import), Customs
House, No.60, Rajaji Salai,
Chennai-1.

... Appellant in both the WAS

Vs

M/s.Mars Shipping Services, Chennai
rep.by its partner Mr.R.Suresh Krishnan

... Respondent in
both the WAS

APPEALS under Clause 15 of the Letters Patent against the common
order dated 30.4.2015 made in W.P.Nos.27726 and 27727 of 2014.

W.P.No.27726 of 2014 : Writ Petition is filed under Article 226 of
the Constitution of India, praying for the issuance of a Writ of
Ceritiorari, to Call for the records of the respondent connected with
Order in original No.29163/ 2014 dated 28.8.2014 in F.No.R-591/ CHA
ordering continuation of the suspension of the license of the Customs
Borker, M/s.Mars Shiping Services (PAN No.AAMF5088N) in exercise of
thepowers conferred on the said respondent under Regulation 19(2) of
the Cumstoms Broker Licensing Regulations, 2013 and to quash the same
in as much as the same has been passed without jurisdiction and
without following the due process of law as contemplated under the
CBLR, 2013.

W.P.No.27727 of 2014 : Writ Petition is filed under Article 226 of
the Constitution of India, praying for the issuance of a Writ of
Ceritiorari, to Call for the records connected with Show Cause Notice
issued under Sub-Regulation 1 of Regulation 20 of the CBLR, 2013,
dated 8.9.2014 in F.No.R-653/CHA issued by the respondent, quash the
same on account of the same having drawn a pre-concluded and pre-
judged view, which is in clear violation to the principles of natural
justice.

For Appellant : Mr.V.Sundareswaran, SPC

For Respondent : Mr.N.Viswanathan

COMMON JUDGMENT

(Judgment was delivered by V.RAMASUBRAMANIAN,J)

The Commissioner of Customs has come up with the above appeals, questioning the correctness of a common order passed by the learned Judge allowing two writ petitions filed by the respondent challenging the order of suspension and the show cause notice issued under the Customs House Licence Regulations, 2004.

2. Heard Mr.V.Sundareswaran, learned Senior Panel Counsel appearing for the appellant. Mr.N.Viswanathan, learned counsel takes notice for the respondent.

3. The respondent was issued with a Customs House Agent licence on 12.10.2004, with a period of validity of the licence upto 25.10.2014. On the basis of an investigation by the Air Cargo Intelligence Unit, the Commissioner of Customs issued a show cause notice on 13.6.2014 under Section 124 of the Customs Act. After the respondent filed objections to the notice on 26.6.2014, an order of suspension of the licence was passed on 31.7.2014. Thereafter on 28.8.2014, an Order in Original directing the continuation of the suspension was passed. It was followed by a show cause notice for revocation of licence on 8.9.2014 under Regulation 22.

4. Challenging the order of continuation of suspension dated 28.8.2014 and challenging the notice dated 8.9.2014 proposing to revoke the licence, the respondent filed two writ petitions in W.P.Nos.27726 and 27727 of 2014. Both the writ petitions were allowed by the learned Judge by an order dated 30.4.2015 quashing the show cause notice as well as the order of continuation of suspension. As against the said order, the Commissioner of Customs has come up with the above appeals.

5. But, the writ appeals have today become infructuous in view of one fact, which was probably brought to the notice of the learned Judge. The licence in favour of the respondent itself expired on 25.10.2014. It is true that an application for renewal of licence was already made even when the licence was subsisting. But, the application for renewal was not disposed of till the disposal of the writ petitions. Therefore, rather than focussing on the issue of renewal of licence, both parties fought before the Writ Court on the

question of revocation a licence, which had already expired. This is how the orders impugned in these writ appeals have come to be passed.

6. Apart from the fact that the expiry of the licence on 25.10.2014 made the writ petitions themselves infructuous, there is one more fact, which has taken place after the disposal of the writ petitions. After the writ petitions were allowed on 30.4.2015, the appellant rejected the applications of the respondent for renewal of the licence, by an order dated 21.7.2015. This order refusing to renew the licence has already been challenged in W.P.Nos. 26231 and 26232 of 2015. In the light of these two facts, the issues raised in the writ appeals do not actually warrant any adjudication, as they are virtually infructuous.

7. Hence, leaving it open to both parties to agitate the issue regarding the renewal of licence in the pending writ petitions, the writ appeals are disposed of without expressing any opinion on the findings of the learned Judge. No costs. Consequently, the above MPs are closed.

8. It is stated by Mr.N.Viswanathan, learned counsel for the respondent that in view of the disposal of the writ appeals, the contempt petition filed by the respondent will not be pressed.

9. This is recorded.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

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Sub Assistant Registrar

To

The Commissioner of Customs
(Sea Port Import), Customs
House, No.60, Rajaji Salai,
Chennai-1.

+1cc to Mr.V.Sundareswaran, Advocate, S.R.No.50154
+1cc to Mr.N.Viswanathan, Advocate, S.R.No.50349

W.A.Nos.1359 & 1360 of 2015
and M.P.Nos.1, 1 and 2 of 2015

TEJ(CO)
CA(13/10/2015)