BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2016

CORAM:

THE HONOURABLE MS.JUSTICE K.RAVICHANDRABAABU

W.P(MD)No.8397 of 2014
and
M.P(MD)No.1 of 2014

Fine Fabrics
rep., by its Partner
Mr.S.Ravi Subbian,
No 268, Avinashi Road,
Tirupur-641602 .. Petitioner

Vs.

The Assistant Commissioner (ARC)
O/o.The Commissioner of Customs
Ministry of finance, Department of Revenue,
Custom House,
New Harbour Estate,
Tuticorin 628 004. .. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the respondent to accept the export obligation and discharge certificate (EODC) dated 11.4.2014 issued by the joint director General of Foreign Trade and not to enforce the Bank Guarantee no. 253/2014 (BG.NO:BO51BGP140520001) for a sum of Rs.6 50 000/- dated 21.2.2014 issued by the Karur Vysya Bank Ltd.

For Petitioner : Mr.S.Sethuraman
For Respondent : Mr.R.Nanda Kumar

ORDER

The petitioner seeks for a Mandamus directing the respondent to accept the export obligation and discharge certificate (EODC) dated 11.4.2014 issued by the Joint Director General of Foreign Trade and not to enforce the Bank Guarantee No. 253/2014 (BG.NO:BO51BGP140520001) for a sum of Rs.6,50,000/- dated 21.2.2014 issued by the Karur Vysya Bank Limited.

2.Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondent and perused the materials placed before this Court.

3.It is seen that the petitioner seeks for the present relief of Mandamus based on certain subsequent developments said to have taken place pursuant to an order-in-original made on 30.03.2013 passed by the Commissioner of Customs, Tuticorin. In other words, if the prayer sought for in this writ petition is allowed, it would amount to interfering with the above-said order-in-original made on 30.03.2013 which has not been challenged so far. Needless to say that this Court has consistently taken the view that as against the order-in-original passed by the adjudicating authority, the petitioner has to file only an appeal before the appellate authority as provided under statute. Therefore, the petitioner has to only challenge the said order-in-original before the appellate authority no doubt also by raising the grounds available based on the subsequent developments.

4.Accordingly, this writ petition is dismissed without expressing any view on the merits of the claim made by the petitioner, only on the ground of maintainability, however, with liberty to the petitioner to challenge the order-in-original, dated 30.03.2013, passed by the Commissioner of Customs, Tuticorin, within a period of four weeks from the date of receipt of a copy of this order. If any such appeal is filed within the time stipulated supra, the appellate authority shall consider the same and pass orders on its own merits and in accordance with law without reference to the delay in view of the pendency of this writ petition and the order passed herein. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To
The Assistant Commissioner (ARC)
O/o.The Commissioner of Customs
Ministry of finance, Department of Revenue,
Custom House,
New Harbour Estate,
Tuticorin 628 004.

skn
ms/rr/me/20.01.2017/2p.2c

W.P(MD)No.8397 of 2014

22.12.2016