

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.31857 of 2017

M/s.Vee Vee Clearing and Forwarding
Pvt. Ltd

Rep by its Managing Director M.Rathakrishnan
No.14, East Club Road
Shenoy Nagar
Chennai-600 030

..Petitioner

-Vs-

1. The Commissioner of Customs
Chennai VII Commissionerate
Customs House
No,60, Rajaji Salai
Chennai - 600 001

2. The Assistant Commissioner of Customs
(CBLR)
Customs House
No.60, Rajaji Salai
Chennai-600 001

..Respondents

Prayer:- Writ Petition filed praying to issue a writ of Certiorarified Mandamus calling for the records of the 1st respondent in relation to the Order in Original No.58313/2017 dated 11.09.2017 on the file of the 1st respondent and quash the same and consequently, direct the 1st respondent to renew the CHA license as per the proceedings of the 1st respondent dated 30.05.2017 and issue fresh renewed CHA license to the petitioner company and pass such other orders.

For petitioner : Mr.V.Chandraprabu
For respondents : Mrs.Hema Muralikrishnan

ORDER

Heard Mr.V.Chandraprabu, learned counsel for the Petitioner and Mrs.Hema Muralikrishnan, learned Standing counsel, accepting notice on behalf of the respondents. With the consent of learned counsel appearing on either side, the Writ Petition is taken up for final disposal.

2. The petitioner is before this court, challenging an order passed by the 1st respondent dated 11.09.2017, by which the petitioner's application for renewal of the Customs Broker license, has been rejected. Though the petitioner was successful in the first round of litigation before the Customs, Excise and Service Tax Appellate Tribunal (hereinafter called as "CESTAT") in Appeal No.C/40923/2015, order dated 20.07.2016, in and by which, the CESTAT allowed the appeal filed by the Petitioner and directed the Petitioner's Customs Broker License restoration with immediate effect. The petitioner has become unsuccessful in the second round of litigation. The reason for rejection of the Petitioner's renewal of Customs Broker License was on the alleged ground of suppression of a criminal prosecution initiated against the Managing Director of the Petitioner, which is pending before the learned Additional Chief Metropolitan Magistrate, Egmore.

3. The Petitioner's case is that they made a full disclosure of four DRI cases pending along with declaration in the application for renewal of Customs Broker License. The CESTAT by its order dated 20.07.2016 ordered revocation of the Customs Broker License and this Court, by order dated 08.06.2017, directed the petitioner to appear before the respondents for passing further orders, however, the 1st respondent, noticed that CBI prosecution in respect of the criminal case registered by the CBI against the Managing Director of the Petitioner Company under the Prevention of Corruption Act, is pending and the same has not been disclosed and therefore, rejected the renewal of licence. It is further submitted that in the case registered by CBI, Officials were arrayed as accused and they have been discharged.

4. In any event, the question which has to be considered is as to whether the alleged suppression of the said criminal case would be fatal to the petitioner's case and his right to get Customs Broker License renewed. Further more, the loss of original Customs Broker License is reported to be missing and when the petitioner has produced Non Traceable certificate dated 07.07.2017 from the Inspector of Police, Crime, K-6, T.P.Chatham Police Station, Kilpauk, the 1st respondent has expressed certain doubts regarding the genuineness of the said certificate.

5. In my considered view, all the issues which are involved in the present case being factual, the Petitioner has to necessarily approach the CESTAT by filing appeal against the impugned rejection order passed by the Original Authority. Thus, by holding that the Writ Petition is not maintainable, liberty is granted to the Petitioner to file appeal before the CESTAT, challenging the impugned order.

With the above observation, the Writ Petition is disposed of. No costs.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

nvsri

To

1. The Commissioner of Customs
Chennai VII Commissionerate
Customs House
No, 60, Rajaji Salai
Chennai - 600 001
2. The Assistant Commissioner of Customs
(CBLR)
Customs House
No. 60, Rajaji Salai
Chennai-600 001

+1 CC to Mr.V. Chandra Prabhu, Advocate sr 87870.

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PVS (CO)
SP (22/12/2017)

सत्यमेव जयते

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