IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2017

CORAM

THE HONOURABLE **MR.JUSTICE T.S.SIVAGNANAM**

W.P.No.14388 of 2017

D.R.Logistics (P) Ltd.,
Rep. By its Managing Director
Mr.R.Devadoss,
No.435/24, T.H.Road,
Kaladipet,
Chennai – 600 019. ... Petitioner

Vs.

1.Union of India,
Rep. By Secretary to Government,
Department of Revenue,
Ministry of Finance,
New Delhi – 110 002.

2.The Commissioner of Customs,
Customs House,
No.60, Rajaji Salai,
Chennai – 1.

3.The Commissioner of Customs (Import and Export),
Customs House,
No.60, Rajaji Salai,
Chennai – 1.

4.The Deputy Commissioner (DOCKS),
'Customs House',
No.60, Rajaji Salai,
Chennai – 1.

5.The Director of Revenue Intelligence,
Directorate of Revenue Intelligence,
No.27, G.N.Chetty Road,
T.Nagar, Chennai – 17. ... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of mandamus to direct the respondents 3 and 4 to permit the movements of the import and export containers to the petitioner company.

For Petitioner	: Mr.K.S.Viswanathan for M/s.Sivakumar
For R1	: Mr.A.P.Srinivas, SPC
For R2 to R4	: Mr.V.Sundareswaran, SPC

ORDER

Heard Mr.K.S.Viswanathan, learned counsel for the petitioner and Mr.A.P.Srinivas, learned standing counsel for the first respondent and Mr.V.Sundareswaran, learned standing counsel for the respondents 2 to 4.

2. The petitioner before this Court is seeking a rather innocuous relief directing the respondents 3 and 4 to permit the movements of the import and export containers to the petitioner Company.

3. The petitioner was granted a license as a container freight station with effect from 2007 onwards and the stand taken by the petitioner is that the license is not specified to any period and the petitioner is entitled to operate the

license continuously. Further, the petitioner would state that the reasons assigned in the counter affidavit filed by the Customs Department stating that the property where the container is situated is subject matter of the proceedings under the SARFAESI Act is of no consequences, as according to the petitioner, the matter has been settled with the said Bank, which issued the notice under Section 13(2) of the Act. It appears that the petitioner has come to the adverse notice of the fifth respondent / the Director of Revenue Intelligence (DRI), Chennai, on account of the alleged tampering of a seal in the container which was located within the petitioner's CFS.

4. However, I find that there is no such notice or communication sent to the petitioner till date either by the Customs or by the DRI. Therefore, the petitioner is entitled to know as to on what basis he is being prevented by the authorities from carrying on operations.

5. Learned standing counsel for the DRI would submit that the petitioner's license has not been renewed since 2014. The petitioner's counsel on the other hand would submit that the license need not be renewed and the license continuous to operate.

6. It is rather doubtful as to whether such a plea is sustainable. Since the petitioner is entitled to know as where he stands, there will be a direction to the third respondent to put on notice to the petitioner as what are all all the allegations levelled against them so as to work out their remedy in the manner known to law. On the other hand, if the third respondent proposes to initiate any action against the petitioner for the alleged misdemeanour, it is open to the authorities to proceed in accordance with the relevant regulations after issuance of the show cause notice. The above direction shall be complied with within a period of two weeks from the date of receipt of a copy of this order. It is made clear that as long as the petitioner has not been specifically prohibited by any written order, their operations cannot be interfered with by the respondents subject to the action to be initiated in accordance with the rules and regulations.

With the above observations, the writ petition is disposed of. No Costs.

17.07.2017

rkm
Index: Yes/no

To

1.The Secretary to Government,
Department of Revenue,
Ministry of Finance,
New Delhi – 110 002.

2.The Commissioner of Customs,
Customs House,
No.60, Rajaji Salai,
Chennai – 1.

3.The Commissioner of Customs (Import and Export),
Customs House,
No.60, Rajaji Salai,
Chennai – 1.

4.The Deputy Commissioner (DOCKS),
'Customs House',
No.60, Rajaji Salai,
Chennai – 1.

5.The Director of Revenue Intelligence,
Directorate of Revenue Intelligence,
No.27, G.N.Chetty Road,
T.Nagar, Chennai – 17.

T.S.SIVAGNANAM, J.

Rkm

W.P.No.14388 of 2017

17.07.2017