

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2017

CORAM

THE HONOURABLE MR.JUSTICE RAVICHANDRABAABU

W.P.Nos.261 & 262 of 2017

and

W.M.P.Nos.281 to 283 of 2017

M/s.Marudhar Agency,
Represented by its Proprietrix Mrs.Sumitra Bai,
Door No.418, Shop No.3,
Mint Street, Sowcarpet,
Chennai - 600 079.

... Petitioner
(in W.P.No.261 of 2017)

M/s.Shree Ganesh Agencies,
Represented by its Proprietor Mr.S.Balasubramaniam,
No.34/35, 2nd Floor,
Strotten Muthiah Mudali Street,
Sowcarpet,
Chennai - 600 079.

... Petitioner
(in W.P.No.262 of 2017)

VS

1.The Additional Director General,
Directorate of Revenue Intelligence,
23,Gopalakrishna (Iyer) Road,
T.Nagar, Chennai- 600 017.

2.The Commissioner of Customs,
Custom House,
Rajaji Salai,
Chennai - 600 001.

... Respondents
(in W.P.Nos.261 & 262 of 2017)

PRAYER:

Writ Petition Nos.261 & 262 of 2017 filed under Article 226 of the Constitution of India, praying for the issuance of a Writs of Certiorarified Mandamus, calling for the records pertaining to the impugned rejection of the 2nd respondent by his proceedings dated 28.09.2016 in F.No.CAU/DRI/CHE/20/2014 and quash the same and consequently direct the 2nd respondent to permit for cross examination of the said Manoj Arjun Gore referred in the Show Cause Notice dated 28.02.2014 in F.No.VIII/26/183/2013-DRI.

For Petitioner : Mr.Fizal
For Mr.A.Mohamed Ismail
For Respondents: Mr.V.Sundareswaran,
Standing counsel, for R1.
Mrs.Hema Muralikrishnan
Standing counsel, for R2.

C O M M O N O R D E R

Both these writ petitions are filed by different writ petitioners, challenging the order passed by the second respondent dated 28.09.2016, rejecting the request of the petitioner for cross-examination of one Manoj Arjun Gore, during the adjudication proceedings. Consequently, both the petitioners seek for a direction to the second respondent to permit for cross-examination of the said person referred to in the Show Cause Notice dated 28.02.2014.

2. Heard the learned counsel for the petitioners in both the Writ petitions and the learned counsel appearing for the respondents.

3. The grievance of the petitioners is that the Adjudicating Authority has contemplated to rely on a statement recorded from the said Manoj Arjun Gore against the interest of the petitioners in each case, without affording an opportunity of cross examination of such person. According to the petitioners, unless they are given such opportunity to cross-examine the said person, they would be denied the reasonable opportunity to defend their case before the Adjudicating Authority.

4. In the impugned proceedings, the second respondent denied such opportunity to the petitioners by contending that they have been given an opportunity to counter the statement in their defence reply during the personal hearing.

5. Today, when the matter is taken up for final disposal, the learned counsel appearing for the respondents, based on instructions, submitted that the Adjudicating Authority will proceed to pass orders based on the records available and however if the statement of the said Manoj Arjun Gore is sought to be relied on by the Adjudicating Authority, certainly the petitioner will be given an opportunity to cross-examine the said person.

6. Therefore, the learned counsels for the respondents submitted that the petitioners interest will be protected by permitting such cross examination, if the second respondent is going to rely on such statement of the said person. Accordingly, they submitted that the above undertaking may be

recorded and these writ petitions may be disposed of.

7. The learned counsel for the petitioners submitted that if the second respondent is not going to rely on the statement of the said person, there is no necessity for the petitioner to cross examine such person. On the other hand, the learned counsel submitted that, if the second respondent is going to rely on the said statement, the petitioners interest should be protected by permitting them to cross examine the said person.

8. Considering the submissions made by the learned counsels for the respondents and their undertaking given before this Court, as stated supra, I do not think that the petitioner can have any grievance as of now. Accordingly, these writ petitions are disposed of, by recording the undertaking given by the respondent. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Additional Director General,
Directorate of Revenue Intelligence,
23,Gopalakrishna (Iyer) Road,
T.Nagar, Chennai- 600 017.

2.The Commissioner of Customs,
Custom House,
Rajaji Salai,
Chennai - 600 001.

+2 ccs to M/s.A.Mohammed Ismail Advocate sr 40108 & 40109
+1 cc to M/s.V.Sundareswaran Advocate sr 40256
+1 cc to M/s.Hema Muralikrishnan Advocate sr 40229

W.P.Nos.261 & 262 of 2017

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