

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.26435 of 2017
and
W.M.P.Nos.28132 & 28133 of 2017

M/s.Raj Brothers Shipping Pvt. Ltd.,
1st Floor, 9/3A, Lotus Ramasamy Street,
Royapuram, Chennai - 600 013.

By its Director Mr.M.Thirumala Thiagarajan

... Petitioner

Vs.

The Commissioner of Customs,
Chennai VIII Commissionerate,
Custom House, Chennai - 600 001.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records connected with Order in Original No.57399 of 2017 dated 03.08.2017 passed by the respondent herein, ordering for revocation of customs broker license No.CHN/R-294/2013 held by the petitioner, imposing the penalty and forfeiture of security deposit furnished by the petitioner and to quash the same, as the same has been passed without jurisdiction and authority of law.

For Petitioner : Mr.N.Viswanathan

For Respondent : M/s.R.Hemalatha
Senior Panel Counsel

ORDER

Heard Mr.N.Viswanathan, learned counsel for the petitioner and Mrs.R.Hemalatha, learned Senior Standing Counsel for the respondent. With the consent on either side, the writ petition is taken up for disposal.

2.The petitioner has challenged the Order in Original passed by the respondent dated 03.08.2017 by which the petitioner's customs broker license has been revoked, apart from revoking, the identity cards issued in G and F forms for the

employees of the petitioner and imposing a penalty of Rs.50,000/- on the petitioner and forfeiting the security deposit.

3.The learned counsel the petitioner pointed out that the petitioner had received a sum of Rs.2,00,000/- from his client who is the importer and this amount was payable as customs duty which was subsequently reimbursed by the importer and the transaction having been done through approved banking channel, there can be no allegation made against the petitioner in the discharge of his duties as a Customs Broker. Further, it is contended that the show cause notice did not specifically allege as to which regulation of the Customs Brokers Licensing Regulation, 2013, the petitioner had violated.

4.After elaborately hearing the learned counsel for the petitioner as well as the learned Standing Counsel for the respondent, I find that to answer two contentions raised by the petitioner, a thorough factual exercise has to be done. The respondent has pointed out as to when the amount has been reimbursed by the client to the petitioner and noted that it was done much after customs duty was remitted by the petitioner. The importer has given a statement that the petitioner was arm twisted to pay a sum of Rs.2,00,000/- and the same was on the ground it has to be paid to the Investigating Agencies. Thus, these factual aspects cannot be gone into in a writ petition, as the petitioner has an effective alternate remedy under the provisions of the Customs Act, by approaching the appellate authority.

5.Thus, for the above reasons, the Writ Petition is not maintainable and accordingly, the same is dismissed, leaving it open to the petitioner to avail the appellate remedy. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
सहायक न्याय
Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

Sgl

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To

The Commissioner of Customs,
Chennai VIII Commissionerate,
Custom House, Chennai - 600 001.

+1 CC to Mr.N. Viswanathan, Advocate sr 73321.

+1 Cc to Ms. R. Hemalatha, Advocate sr 72792.

W.P.No.26435 of 2017

SR(CO)
SP(08/11/2017)



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