

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.12.2017

Coram

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.29594 of 2017

M/s. P. R. Agencies,
rep. by its Managing Partner,
Shri S. Ravichandran

...Petitioner

Vs.

1. The Commissioner of Customs,
Chennai VIII Commissionerate,
Customs House No.60, Rajaji Salai,
Chennai - 600 001.
2. The Deputy Commissioner of Customs
(Customs Broker)
Customs House No.60, Rajaji Salai,
Chennai - 600 001.
3. The Traffic Manager,
Chennai Port Trust,
Administrative Office,
Rajaji Salai, Chennai - 600 001.

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the first and second respondents to process and accept the applications dated 17.08.2017 and 04.10.2017, of the petitioner for issue of identity cards and for inclusion of power of attorney.

For Petitioner : Mr. G. Derrick Sam

For Respondents : Mr.G.M.Syed Nurullah Sheriff
Senior Panel Counsel

O R D E R

Heard Mr. G. Derrick Sam, the learned counsel appearing for the petitioner and Mr.G.M.Syed Nurullah Sheriff, the learned Senior Panel Counsel for the respondent. With the consent on either side, Writ Petition is taken up for disposal.

2. The petitioner seeks for a direction upon the respondents 1 and 2 to process and accept their applications, dated 17.08.2017 and 04.10.2017, for issue of identity cards and for inclusion of power of attorney.

3. So far as the issue of identity card is concerned, the learned counsel appearing for the petitioner submitted that, identity card in respect of one of the employees has been issued, and insofar as another employee is concerned, the petitioner is not pressing upon it, because, he has resigned the job and left the petitioner-Organisation. Therefore, one portion of the prayer sought for by the petitioner has become infructuous, as it has worked itself out. So far as the second limb of the prayer is concerned, viz., the prayer for inclusion of power of attorney, the learned counsel for the petitioner submitted that, on account of pendency of the Appeal before the Customs, Excise Service Tax Appellate Tribunal (CESTAT) challenging the order in original, dated 30.11.2015, the application for permitting the power of attorney to sign on behalf of the petitioner has not been considered. By the said order-in-original, dated 30.11.2015, the prohibition order passed on the petitioner, dated 24.06.2015, was revoked by the Commissioner of Customs, Chennai-VIII, Commissionerate. Thus, the petitioner has succeeded before the first appellant Authority, Chennai. As against the said order, it is the revenue, which to file appeal before the CESTAT.

4. Thus, as on date, the prohibitory order cannot be put against the petitioner, since it has already been set aside and mere pendency of the Appeal before the CESTAT will not amount to reviving the order of prohibition. Further, it is pointed out by the learned counsel for the petitioner that, no show cause notice has been issued, in terms of Rule 20 of CBLR and issuance of show cause notice at this juncture does not arise.

5. Considering the above factual position, this is a fit case, where, the respondents 1 and 2 should consider the petitioner's applications for inclusion of power of attorney and such inclusion can be subject to final outcome of the Appeal by the Revenue before the CESTAT, challenging the order in original.

6. In the light of the above, the respondents 1 and 2 are directed to pass appropriate orders on the petitioner's applications dated 17.08.2017 and 04.10.2017, for inclusion of power of attorney within a period of four weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

To

1. The Commissioner of Customs,
Chennai VIII Commissionerate,
Customs House No.60, Rajaji Salai,
Chennai - 600 001.
 2. The Deputy Commissioner of Customs
(Customs Broker)
Customs House No.60, Rajaji Salai,
Chennai - 600 001.
 3. The Traffic Manager,
Chennai Port Trust,
Administrative Office,
Rajaji Salai, Chennai - 600 001.
- + 1 cc to Mr.G.M.Syed Nurullah Sheriff Advocate,SR.91023
+ 1 cc to M/s.Hari Radhakrishnan Advocate,SR.91340

Writ Petition No.29594 of 2017

nr 25/01/2018

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