

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2017

CORAM

THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU

W.P.No.29974 of 2017

and

WMP.No.32491 of 2017

M/s.Scope Ingredients Pvt. Ltd.,
Rep. by its Director Shri Sachin Jain
No.19, Marshalls Road,
S-10, 2nd Floor,
Raja Annamalai Building
Egmore, Chennai-600 008.Petitioner

vs.

1. Joint Director of Foreign Trade
Ministry of Commerce
Govt. of India
4th 5th Floor, Shastri Bhavan Annex
26, Haddows Road,
Chennai-600 006.

2. Addl. Director General of Foreign Trade
and Appellate Authority
Ministry of Commerce
Govt. of India
4th 5th Floor, Shastri Bhavan Annex
26, Haddows Road,
Chennai-600 006.

...Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondent to permit the petitioner to import 16 consignments of Excipients, in respect of those imports were Bill of Lading have been filed earlier to the order communicated to the petitioner on 18.03.2017 placing the company in the denied entry list

For Petitioner : Mr.B.Kumar,
Senior Counsel for Mr.S.Ramachandran

For Respondents: Mr.T.V.Krishnamachari,
Senior Panel Counsel.

O R D E R

The petitioner seeks for a mandamus directing the respondent to permit the petitioner to import 16 consignments of Excipients, in respect of those imports for which Bill of Lading was filed earlier to the order communicated to the petitioner on 18.03.2017, wherein the company is black listed.

2. Heard Mr.B.Kumar, learned Senior Counsel appearing for the petitioner. Mr.T.V.Krishnamachari, learned Senior Panel Counsel takes notice for the respondents and opposed the present writ petition including its maintainability.

3. The petitioner is carrying on business as importers, mainly of pharmaceutical products. In pursuant to a case registered by the Central Bureau of Investigation, followed by issuance of a show cause notice, an order dated 10.03.2017, was passed against the petitioner by the first respondent, suspending the petitioner's IE Code No.0407008063 and placing the company in the denied entity list, also by stating that no further license will be granted to the firm under the Foreign Trade (Regulation) Rules, 1993. The petitioner filed a writ petition in WP.No.7894 of 2017 before this Court, challenging the said order. However, the petitioner has chosen to withdraw the said writ petition and accordingly, the writ petition was dismissed as withdrawn, by an order dated 21.04.2017. The petitioner preferred an appeal before the second respondent, challenging the said order dated 10.03.2017, and admittedly, the said appeal is pending. It is also admitted by the petitioner that during the pendency of the appeal, they preferred an interim application seeking for an order enabling them to clear the 16 Bills of Lading and the said application filed on 07.09.2017 is still pending and not taken up. When such being the factual position, the petitioner has come forward to file the present writ petition before this Court with the relief stated supra.

4. Perusal of the facts and circumstances, consideration of the factum of pendency of the above appeal and the interim application filed therein and the prayer sought for in this writ petition, would undoubtedly disclose that the petitioner is making an attempt to get the same relief to import those 16 consignments, especially when such relief sought for by the petitioner before the Appellate Authority, is pending and yet to be considered and decided. Needless to say that the petitioner cannot seek the same remedy before two forums, moreover, as the appeal and the interim application are pending before the second respondent and not yet decided. Thus, this Court is of the view, that the present writ petition cannot be maintained and therefore, it is liable to be disposed, without going into the

merits of the contention raised by the petitioner seeking for import of those 16 consignments.

5. Accordingly, this writ petition is disposed of, with a direction to the second respondent viz., Appellate Authority to consider the interim application filed by the petitioner and pass orders on the same on merits and in accordance with law, after giving due opportunity of hearing to the petitioner as well as the contesting respondents therein. Once again, this Court reiterates that this Court is not expressing any view on the merits of the claim made by the petitioner, as it is for the second respondent to consider and decide. The second respondent will consider the interim application and pass appropriate orders as stated supra, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Joint Director of Foreign Trade
Ministry of Commerce
Govt. of India
4th 5th Floor, Shastri Bhavan Annex
26, Haddows Road, Chennai-600 006.

2.The Addl. Director General of Foreign Trade
and Appellate Authority
Ministry of Commerce
Govt. of India
4th 5th Floor, Shastri Bhavan Annex
26, Haddows Road, Chennai-600 006.

+ 1 cc to Mr.S.Ramachandran, Advocate,SR.83046

+ 1 cc to Mr.T.V.Krishnamachari, Advocate,SR.82770

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PA(CO)
NR 23/11/2017