

In the High Court of Judicature at Madras

Dated : 25.7.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.18592 and 18593 of 2017 and
WMP.Nos.20138 and 20139 of 2017

M/s.Al-Kabir Impex Services,
rep.by its Proprietor Shri.Syed
Khalid Ahmed

...Petitioner

Vs

1.The Commissioner of Customs,
Chennai VIII Commissionerate,
Custom House, No.60, Rajaji
Salai, Chennai-1.

2.The Inquiry Officer & Assistant
Commissioner of Customs,
Customs House, No.60, Rajaji
Salai, Chennai-1.

...Respondents

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari (i) to call for the records pertaining to the impugned show cause notice dated 06.4.2017 in R-245/CHA issued by the first respondent and quash the same (WP.No.18592 of 2017); and (ii) to call for the records pertaining to the impugned inquiry report received on 07.6.2017 in R-245/CHA issued by the second respondent and quash the same (WP.No.18593 of 2017).

For Petitioner : Mr.G.Derrick Sam

For Respondents : Mr.G.M.Syed Noorullah Sheriff, SPC

COMMON ORDER

Mr.G.M.Syed Noorullah Sheriff, learned Senior Panel Counsel accepts notice for the respondents. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner has filed these writ petitions challenging the show cause notice dated 06.4.2017 as well as the inquiry report received on 07.6.2017.

3. When the writ petitions were taken up for hearing on 21.7.2017, this Court made it very clear that the first respondent having vested with the jurisdiction to issue the show cause notice, this Court cannot interdict the proceedings at this stage.

4. However, the learned counsel for the petitioner submitted that the show cause notice is barred by limitation and in this regard, had drawn the attention of this Court relying upon Regulation 20(1) of the Customs Broker Licensing Regulations, 2013. The petitioner's apprehension is that the second respondent has submitted an inquiry report, which, they received on 07.6.2017, in which, the second respondent referred to the contentions raised by the petitioner, which include the plea of limitation raised by the petitioner. However, the inquiry report has brushed aside such a plea and therefore, the first respondent may also not consider such a plea raised in the written submissions dated 05.5.2017 and 15.5.2017.

5. The petitioner need not have any apprehension, as the first respondent, being the Adjudicating Authority, will consider all issues.

However, since the plea of limitation has been raised, it would be appropriate for the first respondent to consider the same as first among several issues. It is made clear that the first respondent need not consider the same as a preliminary issue, but shall consider the plea of limitation as first among several issues that he may frame for consideration.

6. With the above observations, the writ petitions stand disposed of, leaving it open to the first respondent to adjudicate the show cause notice. No costs. Consequently, the above WMPs are closed.

25.7.2017

Internet : Yes

To

- 1.The Commissioner of Customs, Chennai VIII Commissionerate, Custom House, No.60, Rajaji Salai, Chennai-1.
- 2.The Inquiry Officer & Assistant Commissioner of Customs, Custom House, No.60, Rajaji Salai, Chennai-1.

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WP.Nos.18592 & 18593 of 2017&
WMP.Nos.20138 & 20139 of 2017

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