

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2017

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

W.P. No.27411 of 2003

Raja Metals Corporation
239 (New No.495) Mint Street
Chennai 600 003
represented by its Managing Partner
S. Pon Sekar

Petitioner

vs.

1 The Joint Director General of Foreign Trade
O/o the Joint Director General of Foreign Trade
38-39 Whites Road
Royapettah
Chennai - 600 014

2 The Commissioner of Customs
(Sea Exports)
Customs House
Rajaji Salai
Chennai 600 001

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records of the second respondent in F.No.CAU/DRI/69/03 dated 18.07.2003 and to quash the same.

For petitioner :Mr. Velayutham Pitchaiah
for Mr.M.Lakshmipathi

For R1 :Mr. J. Madhana Gopala Rao, SCCG,

For R2 :Mrs. Hema Muralikrishnan
Standing Counsel

ORDER

This writ petition has been filed challenging the order dated 18.07.2003 passed by the second respondent.

2 The facts of the case have been set down in the show

cause notice dated 28.02.2003 that was issued by the Directorate of Revenue Intelligence to the petitioner and the relevant portion therein reads as under:

"2. This Directorate was in receipt of intelligence that some importers of stainless steel coils/sheets and exporters of stainless steel utensils operating under Advance Licences (DEEC) Scheme availing customs notification no.30/97-cus., dated 01.04.97 and 48/99-cus. Dated 27.04.2000, including M/s. Raja Metals Corporation, Chennai were misusing the Advance Licences issued to them by diverting the duty free imported raw materials instead of utilizing the same for manufacture of resultant export products; that some of the units were not in existence and some of them were actual users of the raw materials imported duty free. Based on the said intelligence, the officers of this zonal unit took up investigation in the matter.

3. In pursuant of the above said intelligence, on 24.07.2002, the officers of Directorate of Revenue Intelligence, Chennai visited the office premises of M/s. Raja Metals Corporation, one of such importers/exporters and seized certain documents relating to the imports and exports under a mahazar dt. 24.07.2002. Further, the residential premises of Shri. P. Shantilal Jain of M/s. Salem Stainless Steel Suppliers, the high sea sale suppliers, situated at No.244, E.V.K. Sampath Road, Chennai - 3 was searched on 07.08.2002 and certain prints out from the computer available there were recovered. Further, certain quantity of imported duty free raw materials totally weighing 63.170 MTs lying at the godown premises at No.13, Arcot Road, Porur, Chennai, were seized on 27.09.2002 under mahazar and handed over the said seized goods to the said Shri Shantilal P. Jain for safe custody, after obtaining an undertaking from him."

3 Pursuant to intelligence inputs, the Directorate of Revenue Intelligence took up investigation of the case and after conducting searches and seizures and recording the statements of various persons, issued the aforesaid show cause notice dated 28.02.2003 to the petitioner calling upon the petitioner to show cause as to why action should not be taken under the Customs Act. The petitioner responded to the show cause notice and the final order of adjudication was passed by the Commissioner of Customs on 18.07.2003, challenging which, the petitioner has filed the present writ petition.

4 Heard the learned counsel for the respective parties.

5 At the outset, this Court is of the view that this writ petition is not maintainable in view of the alternative remedy that is available to the petitioner before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT). This is explicitly stated in the preamble portion of the adjudication order dated 18.07.2003 itself, despite which, the petitioner has filed the present writ petition.

In view of the above, this writ petition is dismissed with liberty to the petitioner to work out his remedy in the manner known to law. Costs made easy.

sd/
Assistant Registrar(CS III)

/true copy/

Sub Assistant Registrar

cad

To

1 The Joint Director General of Foreign Trade
O/o the Joint Director of Foreign Trade
38-39 Whites Road
Royapettah
Chennai - 600 014

2 The Commissioner of Customs
(Sea Exports)
Customs House
Rajaji Salai
Chennai 600 001.

+1cc to Mr.Hema Muralikrishnan, Advocate SR.No.1227

+1cc to Mr.Lakshmipathy, Advocate SR.No.867

W.P. No.27411 of 2003

AD(CO)
GN(16/02/2017)