In the High Court of Judicature at Madras

Dated : 17.1.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.1021 of 2018 & WMP.Nos.1233 & 1234 of 2018

M/s.Pranav Exports, rep.by
its Proprietor R.Prakash ...Petitioner

Vs

1.The Deputy Director, Directorate of Revenue Intelligence, Regional Unit, 1103, Trichy Road, Coimbatore-18.

2.The Additional Director General of Revenue Intelligence, Directorate of Revenue Intelligence, Zonal Unit, 27, Adarsh Towers, G.N.Chetty Road, T.Nagar, Chennai-17.

3.The Commissioner of Customs, Custom House, New Harbour Estate, Beach Road, Salt Pans, Tuticorin-4.

4.The Commissioner of Customs, Custom House, Indira Gandhi Road, Willington Island, Kochi-682009.

5.The Chief Manager, Karur Vysya Bank-Overseas Branch, PB.No.6, 315, I Floor, Kumaran Road, Tirupur-641601. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in F.No.VIII/26/07/2017 DRI CBE dated 29.11.2017, quash the same and consequently direct the fifth respondent to permit the petitioner to operate its bank account till disposal of the application dated 12.12.2017 by the Reserve Bank of India.

For Petitioner : Ms.D.Naveena
For Respondents 1 & 2 : Mr.V.Sundareswaran, SPC
For Respondents 3 & 4 : Mr.B.Rabu Manohar, SPC

ORDER

Mr.V.Sundareswaran, learned Senior Panel Counsel accepts notice for respondents 1 and 2. Mr.B.Rabu Mahohar, learned Senior Panel Counsel accepts notice for respondents 3 and 4. Heard both. In view of the order this Court proposes to pass in this writ petition, notice to the fifth respondent is dispensed with and the writ petition itself is taken up for final disposal.

2. The petitioner seeks to quash the communication sent by the first respondent to the fifth respondent dated 29.11.2017, in which, it has been stated that in connection with certain investigation against the petitioner, the fifth respondent bank has been requested to hold all outward transactions (debit in any form) in respect of the current account maintained by the petitioner. The fifth respondent bank has also been requested to allow inward payments (credit in any form) only. The fifth respondent bank has been further requested that as the petitioner admitted their liability towards ineligible drawback availed, any request for issuance of demand draft to be drawn in favour of the Commissioner of Customs alone may be permitted under intimation to the office of the first respondent.

3. It is an admitted case that the petitioner had availed drawback claim as early as 2013 and foreign remittances have not come to the petitioner's bank account within the time permissible under the scheme. On 12.12.2017, the petitioner sent a representation to the Reserve Bank of India seeking extension of time for realization of export sale proceeds.

4. It is stated that the representation dated 12.12.2017 is pending before the Reserve Bank of India for consideration.

5. However, the Directorate of Revenue Intelligence commenced investigation in respect of the drawback claims availed by the petitioner on the allegation that the export value has been inflated, for which, the first summon was issued on 16.11.2017, to which, the petitioner responded and appeared before the authorities. Fresh summons have been issued by the Directorate of Revenue Intelligence for the hearing fixed on 19.1.2018, for which, the petitioner is ready and willing to cooperate and furnish all statements that may be required by the Directorate of Revenue Intelligence.

6. In the given facts and circumstances, this Court finds that though, as on date, the petitioner is not eligible to avail the drawback claim, which had been availed in the year 2013, the same is in the stage of investigation as regards quantum of drawback eligible apart from the fact of non remittance of foreign exchange within the time permitted. In any event, there

should have been a demand raised to the petitioner, which appears to have been not issued till date.

7. Therefore, while permitting the Directorate of Revenue Intelligence to continue investigation, the petitioner should be permitted to operate their bank account by simultaneously protecting the interests of the Revenue. The amount of drawback claim availed by the petitioner is Rs.80 lakhs approximately.

8. Therefore, the writ petition is disposed of with a direction to the petitioner to furnish bank guarantee for 25% of the drawback claim availed by the petitioner (25% of Rs.80 lakhs) to the satisfaction of the third respondent or any other appropriate authority of the Customs Department and execute a bond in the proper format for the differential amount to the satisfaction of the appropriate officer. The above two conditions shall be complied with by the petitioner within a period of two weeks from the date of receipt of a copy of this order. On such compliance and producing appropriate proof thereof before the first respondent, the first respondent shall address the fifth respondent issuing necessary instructions by withdrawing the embargo placed vide their communication dated 29.11.2017 with regard to the outward transactions of the petitioner's current account maintained with the fifth respondent bank. It is made clear that the petitioner shall extend their full cooperation to the investigation to be done by the Directorate of Revenue Intelligence and appear as and when called upon to do so. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To
1.The Deputy Director, Directorate of Revenue Intelligence, Regional Unit,
1103, Trichy Road, Coimbatore-18.
2.The Additional Director General of Revenue Intelligence, Directorate of
Revenue Intelligence, Zonal Unit, 27, Adarsh Towers, G.N.Chetty Road,
T.Nagar, Chennai-17.
3.The Commissioner of Customs, Custom House,
New Harbour Estate,
Beach Road, Salt Pans, Tuticorin-4.

4.The Commissioner of Customs, Custom House,
Indira Gandhi Road,
Willington Island, Kochi-682009.

5.The Chief Manager, Karur Vysya Bank-Overseas Branch,
PB.No.6, 315,
I Floor, Kumaran Road, Tirupur-641601.

+1 cc to M/s.S.Durai Raj Advocate sr 3512
+1 cc to M/s.Rabu Manohar Advocate sr 3180
+1 cc to M/s.V.Sundareswaran Advocate sr 3870 dt 19/01/2018

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of 2018

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