

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.24574 & 27352 of 2018

in

W.M.P.No.28606 of 2018

M/s.Vel Enterprises
Rep. by its Proprietor Mr.D.Prasanth
93/38, Narasaiyar Street,
Old Washermenpet,
Chennai-600 021.

..Petitioner
(in WP.No.24574 of 2018)

M/s.Vel Enterprises
Rep. by its A.Mohamed Ameerudeen
No.93/38, Narasaiyar Street,
Old Washermenpet
Chennai-600 021.

... Petitioner
(in WP.No.27352 of 2018)

vs.

1.The Commissioner of Customs
Group-6, Custom House, No.60, Rajaji Salai,
Chennai-600 001.

2.The Additional Commissioner of Customs
Group-6, Custom House
No.60, Rajaji Salai, Chennai-600 001.

3.The Deputy Commissioner of Customs-SIIB
Custom House, No.60, Rajaji Salai,
Chennai-600 001.

... Respondents
(in WP.No.24574 of 2018)

1.The Principal Commissioner of Customs III
Chennai-600 001.

2.The Deputy Commissioner of Customs
SIIB Office of the Principal Commissioner of Customs
Chennai-600 001.

... Respondents
(in WP.No.27352 of 2018)

Writ Petition No.24574 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents herein to release the goods totally 390 cartons viz., Kids Cycles, Children Ride on Cars and Spare parts of different models imported vide Bill of Entry No.6206707 dated 01.05.2018, after collecting appropriate duty for the total quantity of the goods.

Writ Petition No.27352 of 2018 filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd respondent to release the goods pertained to E.No.6206707 dated 01.05.2018 and by considering the representation dated 12.06.2018.

For Petitioner : Mr.A.K.Jayaraj
(in WP.No.24574 of 2018)

Mr.D.Raja
(in WP.No.27352 of 2018)

For Respondents : Mrs.Aparna Nandakumar
Senior Panel Counsel
(in both WPs)

C O M M O N O R D E R

WP.No.24574 of 2018 is filed seeking for issuance of a writ of mandamus, directing the respondents herein to release the goods totally 390 cartons viz., Kids Cycles, Children Ride on Cars and Spare parts of different models imported vide Bill of Entry No.6206707 dated 01.05.2018, after collecting appropriate duty for the total quantity of the goods.

2. In WP.No.24574 of 2018, the petitioner is shown as M/s.Vel Enterprises, Rep. by its Proprietor Mr.D.Prasanth. When the matter was listed for admission on 18.09.2018, the learned Senior Panel Counsel took notice for the respondents and sought time to get instructions. Accordingly, the matter was adjourned.

3. Thereafter, another writ petition in WP.No.27352 of 2018 is filed seeking for issuance of a writ of mandamus, directing the 2nd respondent to release the goods pertained to E.No.6206707 dated 01.05.2018 and by considering the representation dated 12.06.2018.

4. In WP.No.27352 of 2018, the petitioner is shown as M/s.Vel Enterprises, Rep. by its A.Mohamed Ameerudeen. When the matter was listed for admission on 22.10.2018, the learned standing counsel took notice for the respondents and sought time

to get instructions. Accordingly, this writ petition was also adjourned.

5. When WP.No.24574 of 2018 was listed on 31.10.2018 for hearing, it was informed by the learned Senior Panel Counsel for the respondents that another writ petition was filed by the very same petitioner-Firm in WP.No.27352 of 2018, by showing some other person as the representative of the firm. Therefore, this Court has directed the Registry to post both the writ petitions together. Accordingly, both the writ petitions are listed today.

6. Perusal of the prayer sought for in both the writ petitions would show that they are one and the same, filed by the same petitioner-Firm, however, by showing one was filed by the proprietor viz., D.Prasanth and the other by one Mohamed Ameerudeen, claiming to do the business of port consignments, partner of the petitioner-Firm. An affidavit filed in support of WP.No.27352 of 2018 does not disclose the filing of the earlier writ petition in WP.No.24574 of 2018. WP.No.24574 of 2018 is filed by the proprietor of the petitioner-Firm and WP.No.27352 of 2018 is filed by a person claiming to be the partner of the petitioner-Firm. The above facts would disclose that the petitioner is trying to play fraud with the Court by filing two writ petitions for the same relief represented by two persons with an obvious intention to get some order by suppressing the material facts.

7. It is to be noted at this juncture, that both these writ petitions are however not filed by one and the same counsel. The learned counsel for the petitioner who filed WP.No.27352 of 2018 sought permission of this Court to withdraw this writ petition and he has also given a letter to the Registry on 31.10.2018. This morning at 10.30 a.m., he also made a mention before this Court to withdraw this writ petition, which this Court declined.

8. The conduct of the petitioner as stated supra would show that filing of these two writ petitions, one after another for the same relief in total suppression of the factum of the pendency of earlier writ petition is undoubtedly, an act which cannot be pardoned, by simply dismissing the subsequent writ petition as withdrawn. Therefore, solely on the above conduct of the petitioner, this Court is not inclined to entertain both the matters any further and is also of the view that these writ petitions should be dismissed with exemplary costs, so that the petitioner will not indulge in such acts in future.

9. Accordingly, both these writ petitions are dismissed with costs of Rs.50,000/- payable to the credit of the Hon'ble Chief Justice Relief Fund (Payable in Accounts Section of the High

Court Registry), within a period of four weeks from the date of receipt of a copy of this order and file a photocopy of the receipt along with a memo for reporting compliance in the Registry. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner of Customs
Group-6, Custom House, No.60, Rajaji Salai,
Chennai-600 001.
- 2.The Additional Commissioner of Customs
Group-6, Custom House
No.60, Rajaji Salai, Chennai-600 001.
- 3.The Deputy Commissioner of Customs-SIIB
Custom House, No.60, Rajaji Salai,
Chennai-600 001.
- 4.The Principal Commissioner of Customs III
Chennai-600 001.
- 5.The Deputy Commissioner of Customs
SIIB Office of the Principal Commissioner of Customs
Chennai-600 001.
- 6.The Section Officer
Accounts Section
High Court of Madras.
Chennai-600 104.

+lcc to Mr.G.Punniyakotti, Advocate, S.R.No.75820
+lcc to Mr.A.Aparna Nandakumar, Advocate, S.R.No.75695

W.P.Nos.24574 & 27352 of 2018

KAN(CO)

rrs 29/11/2018