

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2018

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.18643 of 2007

And

M.P.No.1 of 2009

M/s.Sri Lakshmi Textiles Mills,
Rep. by its Partner
R.Karpagam

... Petitioner

Vs.

- 1.The 2nd Appellant Committee,
Govt. of India,
Ministry of Textiles,
Udyog Bhavan, New Delhi.
- 2.The Appellate Committee,
Office of the Textile Commissioner,
New C.G.O.Buildings,
48, New Marine Lines,
Mumbai - 400 020.
- 3.The Cotton Textiles Export Promotion Council,
Engineering centre,
5th Floor, No.9, Mathew Road,
Mumbai - 400 004.
- 4.The City Union Bank,
By its Manager,
Pappanaickenpalayam Branch,
Coimbatore.

... Respondents

Prayer:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records from the file of the 1st respondent in reference to ORDER No.14/37/2007-IT dated 11.4.2007 and quash the same.

For Petitioner : Mr.R.Babu

For Respondents: M/s.R.Maheswari for R1 and R2
ACGSC
Mr.S.R.Rajagopal
for Mr.V.Anilkumar for R3
Mr.R.Sivaraman for R4

O R D E R

The petitioner has filed this petition seeking issuance of Writ of Certiorari to call for the records from the file of the first respondent in reference to ORDER No.14/37/2007-IT dated 11.04.2007 and to quash the same.

2.The case of the petitioner is that the petitioner is engaged in the business of producing the textile goods and selling them in local market and also exporting them to foreign countries. The petitioner has not reached the norms prescribed by the third respondent for which, the petitioner was directed to surrender the revalidated quota without any forfeiture of the earnest money deposit. If the petitioner do so, they can avail the benefit of one time waiver of compensation, for which they were requested to contact the office of the third respondent within ten days.

3.It is the further case of the petitioner that the petitioner firm did not avail the said opportunity. Thereafter, the petitioner was issued with a show cause notice dated 23.09.2005 for which, the petitioner sent a reply dated 18.10.2005 stating that the quota certificates were already surrendered in the office of the third respondent. Being not satisfied with the reply given by the petitioner, the forfeiture order dated 16.11.2005 came to be passed.

4.It is the further case of the petitioner that in the forfeiture order the petitioner was directed to pay a compensation of Rs.5,55,782/-. It was further stated that if the petitioner was aggrieved by the compensation claimed, the petitioner may prefer appeal to the Office of the Textile Commissioner, Mumbai, for waiver of compensation claimed within 45 days. Accordingly, the petitioner preferred appeal before the Office of the Textile Commissioner, Mumbai/ second respondent, within 45 days, however, the second respondent uphold the forfeiture order. Aggrieved by the same, the petitioner filed appeal before the first respondent, however, the first respondent vide order dated 11.04.2007 rejected the appeal. The said order is impugned in this writ petition.

5.The learned counsel appearing for the petitioner would submit that the petitioner is not interested in pursuing the case.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.While entertaining the writ petition on 23.05.2007, this Court has granted an order of ad-interim injunction for a period

of four weeks. Subsequently, vide order dated 21.08.2007, this Court, directed the petitioner to give a fresh bank guarantee and on such condition, extended the interim order till the disposal of the writ petition.

8.It is known that the petitioner has not complied with the interim order dated 21.08.2007 and the bank guarantee originally given is very much available with the fourth respondent Bank.

9.Since the conditional order dated 21.08.2007 has not been complied with by the petitioner, the ad-interim injunction granted by this Court is vacated. The third respondent is entitled to encash the bank guarantee available with the fourth respondent.

10.With the above observation, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

pri

+1cc to Mr.S.R.Rajagopal Advocate SR.No.47275
+1cc to Mr.P.Indhumathi, Advocate SR.No.47219

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And
M.P.No.1 of 2009

GJII (CO)
GN(14/08/2018)

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