

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.25334 of 2018

and

W.M.P.Nos.29484 & 29488 of 2018

M/s.Fulchand Exports,
Having Office at 14-C,
Angeripalayam Road, Tirupur
Through its Partner
Mr.Basant Fulchand Sundesha
Also at 3, Shastri Nagar,
Angeripalayam Road, Tirupur

.... Petitioner

Vs

- 1.The Principal Commissioner of Customs (Air Cargo),
New Custom House, Meenambakkam,
Chennai - 600 027.
- 2.The Deputy Director,
Directorate General of Central Excise Intelligence
Regional Unit,
386 A Pankaja Mill Road, 1st Floor,
Ramanathapuram, Coimbatore - 641 045.
- 3.The Deputy Commissioner of Customs,
Customs House, New Harbour Estate,
Tuticorin - 628 004.
- 4.The Central Board of Excise & Customs,
Department of Revenue, Ministry of Finance,
New Delhi, Through its Director.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, for quashing Notification No.37/2018 dated 11.05.2018 issued by Respondent No.4 belatedly after enormous unexplained delay of more than 10 years in continuance of Show Cause Notice dated 20.06.2006 issued by the Respondent No.2 without considering any of the numerous representations of the Petitioner and in complete violation of the settled principles of law.

For Petitioner : Mr.Sanjay Ramasyami

For Respondents: Mr.Rajnish Pathyil,
Central Government Standing Counsel

O R D E R

Mr.Rajnish Pathyil, learned Central Government Standing Counsel takes notice for the respondents.

2. Heard Mr.Sanjay Ramasyami, learned counsel appearing for the petitioner.

3. The challenge made in this writ petition is against the Notification dated 11.05.2018 issued by the fourth respondent herein, wherein and whereby, the petitioner was informed that the Commissioner of Customs, Customs House, Tuticorin was appointed as an officer to adjudicate the issue pertaining to the show cause notice dated 20.06.2006, originally answerable to the Commissioner of Customs, Tuticorin, the Commissioner of Customs, Mumbai and the Commissioner of Customs, Chennai.

4. The learned counsel for the petitioner, though vehemently contended that when the show cause notice was issued as early as on 20.06.2006, the respondents are not entitled to proceed further by issuing the impugned notification and appointing a single adjudicating officer, this Court is not convinced to go into the merits of the show cause notice or the contentions raised by the petitioner in this writ petition against such notice on the very simple reason, that the petitioner himself had given their reply to the show cause notice only on 13.12.2016.

5. It is further seen that the petitioner themselves wanted for single adjudicating officer and such request has been considered and the present impugned notification has been issued as stated supra. Such being the fact, the challenge made in this writ petition against the said notification, only indicating the appointment of single adjudicating officer, cannot be sustained as the impugned notification does not give rise to any cause of action to the petitioner to question such notification.

6. Therefore, this Court finds that the present writ petition is not maintainable, as it is for the petitioner to

face the adjudicating proceedings before the officer appointed through the impugned notification, by raising all the contentions on the merits of the matter. Accordingly, this writ petition is dismissed as not maintainable, without expressing any view on the merits of the contentions raised by both the parties. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

- 1.Principal Commissioner of Customs (Air Cargo),
New Custom House, Meenambakkam,
Chennai - 600 027.
- 2.Deputy Director,
Directorate General of Central Excise Intelligence
Regional Unit,
386 A Pankaja Mill Road, 1st Floor,
Ramanathapuram, Coimbatore - 641 045.
- 3.Deputy Commissioner of Customs,
Customs House, New Harbour Estate,
Tuticorin - 628 004.
- 4.Central Board of Excise & Customs,
Department of Revenue, Ministry of Finance,
New Delhi, Through its Director.

+1cc to M/S.Rajnish pathiyil, Advocate Sr.67691

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srg 15/10/2018