

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 05.02.2019

CORAM
THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.3449 of 2019
and
WMP.Nos.3747 & 3749 of 2019

1.M/s. Ibsh Enterprises,
Represented by its Proprietor,
Mr. Afthas Puthusserri,
No.72/474, First Floor,
Mint Street,
Sowcarpet..

...Petitioner

Vs

The Assistant Commissioner of Customs (DIU),
Customs House,
No. 60, Rajaji Salai,
Chennai- 600 001.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the entire records of the impugned Notice dated 24.09.2018 in their proceedings O.S.15/2018-DIU F.No.S.Misc.06/2018-DIU and quash the same and consequently forebear the respondent from in any manner proceedings pursuant to the said impugned show cause notice.

For Petitioner : Mr. P. Bagyalakshmi

For Respondent : Mr. K.S. Ramaswamy,

CGSC for Customs Excise

O R D E R

Mr. K.S. Ramaswamy, learned Standing Counsel takes notice for the respondent. At request and by consent of both parties, the Writ Petition itself is taken up for final disposal at the stage of admission.

2. The petitioner challenges a show cause notice dated 24.09.2018 in proceedings OS.No.15/2018 DIU F.No.S.Misc.06/2018 and seeks quashing of the same as well as an

order forbearing the respondent from proceeding in any manner pursuant to the impugned show cause notice.

3. Heard Mr.P.Bagyalakshmi, learned counsel appearing for the petitioner and Mr. K.S. Ramaswamy, learned Standing Counsel takes notice for the respondent.

4. I am of the view that the Writ Petition is premature insofar as pursuant to the receipt of the show cause notice an objection to the proposals contained therein has been filed by the petitioner on 23.10.2018. Inter alia, the petitioner states that the annexures to the show cause notice has not been furnished and seeks copies of the same. That apart, the petitioner has raised detailed contentions countering the allegations raised in the show cause notice and stating that no undue concessional trade benefit as per Notification No.72/2005, SI.No.A427/A428 of the Asia-Pacific Trade Agreement (formerly known as the Bangkok Agreement Rules), 2006 has been availed of by it.

5. The petitioner has, inter alia, referred to the Examination orders and reports of the Assessing Officers in the Docks Examination contending that the initial assessment framed was correct and that there was no justification for the proposed action in terms of the impugned show cause notice. A personal hearing has also been specifically sought. Mrs.Bagyalakshmi confirms the position that two personal hearings have been afforded to the petitioner. She however expresses apprehension that the matter may not be concluded in accordance with law insofar as there has been no move, as on date, to pass an order after taking into account the detailed submissions made.

6.I see no reason for the apprehension expressed, that should stand allayed seeing as the respondent is a quasi-judicial officer in the rank of Assistant Commissioner who is expected to pass orders after affording full opportunity of hearing, due application of mind to the submissions made by the petitioner and complying with all requirements of a fair and reasonable hearing.

7. The petitioner will appear before the Assistant Commissioner on 25.02.2019 for a personal hearing as specifically sought by it and the respondent will pass orders in accordance with law within a period of six (6) weeks thereafter.

8. The Writ Petition is disposed of in the above terms. No costs.Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrn

To,

The Assistant Commissioner of Customs (DIU),
Customs House,
No. 60, Rajaji Salai,
Chennai-600 001.

+1cc to Mr.K.S.Ramasamy, Advocate, S.R.No.9596

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and

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AK(CO)

rrs 19/02/2019



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