

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.7539, 7544, 7546, 7549, 7551, 7554, 7556 & 7559
of 2019

M/s.Devinarayan Exporters (P) Ltd.,
Rep. by its Director
at No.24-B, 2nd Street,
Dhandayudapani Nagar,
Kotturpuram, Chennai-600 085.

....Petitioner
(in all WPs)

Vs.

1. The Additional Director General of Foreign Trade
Office of the Additional Director General of Foreign
Trade
4th Floor, Shastri Bhawan Annexe
No.26, Haddows road,
Chennai-600 006.

2. The FTDO/Asst. DGFT (E-Commerce)
Office of the Additional Director General of Foreign
Trade
4th Floor, Shastri Bhawan Annexe
No.26, Haddows Road,
Chennai-600 006.

....Respondents
(in all WPs)

Writ Petition No.7539 of 2019 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned communication "Deficiency Letter" dated 05.02.2018 signed on 31.10.2018 in Original File No.04/21/021/00789/AM08 dated 31.11.2007 relating to EPCG License No.0430005582 dated 04.12.2007 issued by the 2nd respondent and quash the same as without authority, unsustainable in law and further direct the 1st respondent to consider and pass orders granting Export Obligation fulfillment Discharge Certificate (EODC) on the application dated 05.02.2018 submitted by the petitioner.

Writ Petition No.7544 of 2019 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned communication "Deficiency Letter" dated 26.08.2016 signed on 31.10.2018 in Original File No.04/21/021/00010/AM08 dated 05.04.2007 relating to EPCG License No.0430004918 dated 07.05.2007 issued by the 2nd respondent and quash the same as without authority, unsustainable in law and further direct the 1st respondent to consider and pass orders granting Export Obligation fulfillment Discharge Certificate (EODC) on the application dated 26.08.2016 submitted by the petitioner.

Writ Petition No.7546 of 2019 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned communication "Deficiency Letter" dated 26.08.2016 signed on 29.10.2018 in Original File No.04/21/021/00552/AM05 dated 23.03.2005 relating to EPCG License No.0430002562 dated 06.04.2005 issued by the 2nd respondent and quash the same as without authority, unsustainable in law and further direct the 1st respondent to consider and pass orders granting Export Obligation fulfillment Discharge Certificate (EODC) on the application dated 26.08.2016 submitted by the petitioner.

Writ Petition No.7549 of 2019 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned communication "Deficiency Letter" dated 05.02.2016 signed on 31.10.2018 in Original File No.04/21/021/00962/AM07 dated 08.01.2007 relating to EPCG License No.0430004537 dated 10.01.2007 issued by the 2nd respondent and quash the same as without authority, unsustainable in law and further direct the 1st respondent to consider and pass orders granting Export Obligation fulfillment Discharge Certificate (EODC) on the application dated 05.12.2016 submitted by the petitioner.

Writ Petition No.7551 of 2019 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned communication "Deficiency Letter" dated 26.08.2016 signed on 31.10.2018 in Original File No.04/21/021/00375/AM07 dated 31.07.2006 relating to EPCG License No.0430003994 dated 17.08.2006 issued by the 2nd respondent and quash the same as without authority,

unsustainable in law and further direct the 1st respondent to consider and pass orders granting Export Obligation fulfillment Discharge Certificate (EODC) on the application dated 26.08.2016 submitted by the petitioner.

Writ Petition No.7554 of 2019 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned communication "Deficiency Letter" dated 05.02.2018 signed on 31.10.2018 in Original File No.04/21/021/00788/AM08 dated 30.11.2007 relating to EPCG License No.0430005734 dated 24.01.2008 issued by the 2nd respondent and quash the same as without authority, unsustainable in law and further direct the 1st respondent to consider and pass orders granting Export Obligation fulfillment Discharge Certificate (EODC) on the application dated 05.02.2018 submitted by the petitioner.

Writ Petition No.7556 of 2019 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned communication "Deficiency Letter" dated 22.08.2016 signed on 31.10.2018 in Original File No.04/21/021/00821/AM06 dated 12.01.2006 relating to EPCG License No.0430003376 dated 31.01.2006 issued by the 2nd respondent and quash the same as without authority, unsustainable in law and further direct the 1st respondent to consider and pass orders granting Export Obligation fulfillment Discharge Certificate (EODC) on the application dated 22.08.2016 submitted by the petitioner.

Writ Petition No.7559 of 2019 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned communication "Deficiency Letter" dated 05.02.2018 signed on 04.01.2019 in Original File No.04/21/021/00839/AM11 dated 25.11.2010 relating to EPCG License No.0430009238 dated 30.11.2010 issued by the 2nd respondent and quash the same as without authority, unsustainable in law and further direct the 1st respondent to consider and pass orders granting Export Obligation fulfillment Discharge Certificate (EODC) on the application dated 05.02.2018 submitted by the petitioner.

For Petitioner	:	Mr.K.Jayachandran (in all WPs)
For Respondents	:	Mr.S.Thiruvengadam standing counsel

C O M M O N O R D E R

Mr.S.Thiruvengadam, learned standing counsel takes notice for the respondents. By consent of the parties, these main writ petitions are taken up for final disposal at the admission stage itself.

2. These writ petitions are filed challenging the communications dated 05.02.2016, 22.08.2016, 26.08.2016 and 05.02.2018 issued by the second respondent relating to EPCG Licence Nos.0430005582, 0430004918, 0430002562, 0430004537, 0430003994, 0430005734, 0430003376 and 0430009238 dated 04.12.2007, 07.05.2007, 06.04.2005, 10.01.2007, 17.08.2006, 24.01.2008, 31.01.2006 and 30.11.2010 respectively.

3. It is seen that the applications filed by the petitioner for issue of Export Obligation fulfillment Discharge Certificate were returned through the impugned communications, by stating that the said applications are deficient due to the reasons stated therein. Therefore, in the said communications, the petitioner was called upon to remove the deficiencies noted within a period of 15 days from the date of issue of the said communications, also by indicating that if not returned after removing the deficiencies, the case will be treated as closed. Now, the petitioner has filed these writ petitions challenging the very said communications returning the applications by pointing out the deficiencies therein.

4. The learned standing counsel for the respondents submitted that since the impugned communications are only letters returning the applications pointing out the deficiencies, it is for the petitioner to represent the same after removing the deficiencies and therefore, it is highly premature to approach this Court and challenge the very communications themselves. He further submitted that the applications have not been closed as indicated in the impugned communications even as on this day.

5. I find force in the submission made by the learned standing counsel for the respondents. It is needless to say that if some deficiencies are pointed out by the second respondent in the applications filed by the petitioner, it is for them to represent the said applications either after removing the deficiencies or giving explanation as to how the deficiencies pointed out by the second respondent are not factually correct.

Instead of doing so, the petitioner has straight away filed the present writ petitions, that too, after a period of nearly a year from the date of the orders said to have been signed only on 31.10.2018. Therefore, I find that the present writ petitions are not maintainable. Accordingly, all these writ petitions are disposed of, without expressing any view on the merits of the claim made by the petitioner, however, by granting liberty to the petitioner to represent the said applications within a period of two weeks from the date of receipt of a copy of this order. If the applications are represented within the time stipulated herein, it is for the second respondent to consider the same and pass orders on its own merits and in accordance with law. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Director General of Foreign Trade
Office of the Additional Director General of Foreign Trade
4th Floor, Shastri Bhawan Annexe
No.26, Haddows road,
Chennai-600 006.
2. The FTDO/Asst. DGFT (E-Commerce)
Office of the Additional Director General of Foreign Trade
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No.26, Haddows Road,
Chennai-600 006.

+1cc to Mr.K.Jayachandran, Advocate SR.No. 24858

+8ccs to Mr.S.Thiruvengadam , Advocate SR.No.

24467, 24468, 24469, 24470, 24471, 24472, 24473, 24474

W.P.Nos. 7539, 7544, 7546, 7549,
7551, 7554, 7556 & 7559 of 2019

A.SK(08/04/2019)