

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.30219 of 2019
and
W.M.P.No.30187 of 2019

M/s.Uniqeline
New No.14, 3rd Floor, Jaffer Syrang Street
Behind Collector's Office, Chennai-600 001.
Rep. by its Proprietor Mr.A.Prabhakaran ...Petitioner

vs.

The Additional Commissioner of Customs
Export Documentation Centre
Chennai IV Commissionerate, Customs House
No.60, Rajaji Salai,
Chennai-600 001. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to Order in Original No.67889/2019 dated 28.02.2019 passed by the respondent herein and to quash the same, to the extent of penalty imposed as against the petitioner u/s.114 of the Customs Act, as the said impugned order have been without jurisdiction and in excess of the authority conferred on the respondent and against the provisions of law.

For Petitioner : Mr.S.Baskaran
For Respondent : Mr.K.Magesh
standing counsel

O R D E R

Mr.K.Magesh, learned standing counsel takes notice for the respondent. By consent of both parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed challenging the order in original dated 28.02.2019 only in respect of imposition of penalty of Rs.10,00,000/- on the petitioner under Section 114 of the Customs Act, 1962 for abetting the exporter in mis-declaration and rendering the goods liable for confiscation.

3. Heard the learned counsel for the petitioner and perused the materials placed before this Court.

4. Though several contentions are raised by the learned counsel for the petitioner touching upon the merits of the matter, I find that those contentions are to be raised before the next fact finding authority, viz., the Commissioner of Customs (Appeals), being the Appellate Authority under Section 128(1) of the Customs Act, 1962, by filing statutory appeal. When such statutory appellate remedy is available to the petitioner, I do not think that this writ petition can be entertained, especially, when this Court finds that the points raised in this writ petition are to be considered and decided only by looking into the factual aspects of the matter, which are undoubtedly, disputed questions of facts and circumstances.

5. Therefore, this Court is of the view that only the next fact finding authority viz., the First Appellate Authority is the authority before whom, the petitioner can canvass all the points by way of filing appeal. Accordingly, without expressing any view on the merits of the claim made by the petitioner, this Writ Petition is disposed of, only by granting liberty to file such an appeal within a period of two weeks from the date of receipt of a copy of this order. On receipt of such appeal, the concerned Appellate Authority shall consider the same and pass orders on merits and in accordance with law, without reference to the period of limitation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

mk

To

1. The Additional Commissioner of Customs
Export Documentation Centre
Chennai IV Commissionerate, Customs House
No.60, Rajaji Salai, Chennai-600 001.

2. The Section Officer,
E.R. Section, High Court,
Madras.

Return the Original impugned
order to the petitioner

+1cc to Mr.S.Baskaran, Advocate, S.R.No. 88471

+1cc to Mr.K.Magesh, Advocate, S.R.No. 88475

W.P.No.30219 of 2019