

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.31195 of 2019

and

W.M.P.No.31334 of 2019

M/s.Kawarlal & Co.,

No.27, Raghunayakulu Street,
Chennai-600 003

By its Proprietor K.Ramlal Jain

...Petitioner

vs.

- 1.The Joint Director General of Foreign Trade
O/o. The Additional Director General of Foreign Trade
Ministry of Commerce & Industry, "Kendriya Sadan"
6th Floor, C & E Wing, 17th Main Road,
Koramangala, 2nd Block, Bangalore - 560 034.
- 2.The Joint Director General of Foreign Trade
O/o. The Additional Director General of Foreign Trade
Ministry of Commerce & Industry, 26, Haddows Road,
Shastri Bhawan Annexe Building, Chennai-600 006.
- 3.The Additional Director General of Foreign Trade
Ministry of Commerce & Industry, 26, Haddows Road,
Shastri Bhawan Annexe Building, Chennai-600 006.
- 4.The Joint/Additional Commissioner of Customs (Imports)
No.60, Rajaji Salai, Customs House,
Chennai-600 001.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the order dated 28.10.2019 comprised in File No.07/26/JDG/Kawarlal & Co.,/AM20 passed by the 1st respondent herein and to quash the same, insofar as the said order has been passed without jurisdiction and authority of law and contrary to the statutory provisions and in total violation of the principles of natural justice and also violating the fundamental rights guaranteed to the petitioner in terms of Article 19(1)(g) and 301 of the Constitution of India.

For Petitioner : Mr.Mohan
for Mr.S.Baskaran

For Respondents : Mr.R.Rajesh Vivekandan
for R1 to R3

Mr.T.L.Thirumalaiswamy
standing counsel for R4

O R D E R

Mr.R.Rajesh Vivekanandan, learned counsel takes notice for the respondents 1 to 3. Mr.T.L.Thirumalaiswamy, learned standing counsel takes notice for the fourth respondent. By consent of both the parties, the main writ petition is taken up for final disposal.

2. This writ petition is filed challenging the order dated 28.10.2019 passed by the first respondent, wherein and whereby, IEC granted in favour of the petitioner in IEC.No.0402001630 is suspended under Section 8(1)(a) of the Foreign Trade (Development & Regulation) Act, 1992 read with FT (D&R) Amendment Act, 2010.

3. Heard Mr.Mohan, learned counsel appearing for the petitioner and perused the materials placed before this Court.

4. It is the contention of the petitioner that the 1st respondent has passed the impugned order reiterating the contentions already raised by him, while passing similar suspension order dated 08.08.2019, which was set aside by this Court and remitted for reconsideration on the ground that it was a non-speaking order. Therefore, the learned counsel contended that this Court can entertain the present writ petition, even though an appellate remedy is provided against the impugned order before the concerned Appellate Authority.

5. I have given careful consideration to the above submissions made by the learned counsel for the petitioner and also perused the earlier order dated 08.08.2019 as well as the present impugned order dated 28.10.2019. I am not in a position to agree with the submission of the learned counsel for the petitioner that the present order does not disclose any reason and that it is only reiterating the earlier grounds.

6. Perusal of the impugned order, certainly, indicates that the 1st respondent has passed the said order after disclosing certain reasons and circumstances. Whether those reasons and circumstances are justifiable or not, is a matter to be considered by the next fact finding authority viz., the

Appellate Authority and therefore, this Court at this stage is not inclined to entertain the present writ petition.

7. 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 the petitioner to work out their remedy against the impugned order before the concerned Appellate Authority by filing regular appeal. Since the time granted for filing such appeal in the impugned order is still in force, it is for the petitioner to file such an appeal within the time. If any such appeal is filed within the time stipulated, the concerned Appellate Authority viz., the third respondent shall consider the said appeal on its own merits and pass orders in accordance with law, within a period of twelve weeks from the date of receipt of such appeal. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

mk
To Sub Assistant Registrar

- 1.The Joint Director General of Foreign Trade
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+2 ccs to M/s.S.Baskaran, Advocate, S.R.No.91814
+1 cc to M/s.T.L.Thirumalaisamy, Advocate, S.R.No.92030
+1 cc to Mr.R.Rajesh Vivekananthan, Advocate, **S.R.No.92741**
(21/11/19)

W.P.No.31195 of 2019

CA(CO)
SSM(08/11/2019)
SSM(21/11/2019)