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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2019

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 32653 of 2019
and
W.M.P. No. 33055 of 2019

GAC House,
No. 3, Krishnan Koil Street,
Chennai - 600 001.
Rep. by its Power of Attorney Agent,
Suresh P.

... Petitioner

-vs-

1. The Chennai Port Trust,
Rep. by its Chairman,
Rajaji Salai,
Chennai - 600 001.
2. The Deputy Conservator,
Chennai Port Trust,
Administrative,
Rajaji Salai,
Chennai - 600 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records leading to Demand Notice dated 05.11.2019, vide No. AO(MFA)/SBT/ COURT CASES/2003/FR issued by the Second Respondent herein, and quash the same.

For Petitioner : Mr. P. Giridharan

For Respondents: Mr. R. Karthikeyan,
Standing Counsel

O R D E R

Heard Mr. P. Giridharan, Learned Counsel appearing for the Petitioner and Mr. R. Karthikeyan, Learned Standing Counsel appearing for the Respondents and perused the materials placed



on record, apart from the pleadings of the parties, apart from the pleadings of the parties.

2. The Petitioner is a Steamer Agent acting for various shipping lines and ship operators. The Petitioner had earlier questioned the revised bills by letters dated 02.05.2003 and 31.05.2003 issued by the Respondents claiming differential amount due from the Petitioner for the services extended at the Port of Chennai in respect of bill dated 09.10.2002 that had been paid by the Petitioner, in W.P. No. 21988 of 2003 before this Court, which was allowed by order dated 28.03.2018. It has been held in that decision as follows:-

"9. In the result, the impugned order dated 25.07.2003 is quashed. However, it is made clear that if the Respondent still desires to raise any demand against the Petitioner, it could do so only after following the procedure contemplated under sub-section (1) of Section 56 of the Major Port Trusts Act, 1963, by issuing show cause notice and if show cause notice is issued, it would be open to the Petitioner to place all objections in the representation to be submitted in terms of sub-section (2) of Section 56 of the Major Port Trusts Act, 1963 and it shall be incumbent upon the Respondent to consider each of the objections raised by the Petitioner and pass reasoned order on merits in accordance with law and communicate the decision taken. It is needless to add here that the Respondent shall be entitled to pursue any legal remedy for the recovery of the amount, if found due, only after having complied with the aforesaid procedure in terms of that statutory provision."

In furtherance to that order, the Second Respondent issued show cause notice No. AO(MFA)/SBT/COURT CASES/2003/FR dated 15.07.2019 under Section 56(1) of the Major Port Trust Act, 1963, to the Petitioner, and the Petitioner through its Advocate sent a reply dated 29.07.2019 for the same. However, without considering any of the contentions raised by the Petitioner in the aforesaid reply to the show cause notice, the Second Respondent has issued order No. AO(MFA)/SBT/COURT CASES/2003/FR dated 05.11.2019 requiring the Petitioner to remit a sum of Rs.16,03,812.04 demanded in the aforesaid show cause notice, and aggrieved by which the Petitioner has filed this Writ Petition challenging the same.

3. On a perusal of the impugned order, it is apparent that there is no reference to the explanation submitted by the Petitioner in the reply to the show cause notice, and the



objections raised have not even been considered. In the aforesaid circumstances, the impugned order No. AO(MFA)/SBT/COURT CASES/2003/FR dated 05.11.2019 passed by the Second Respondent, which cannot be sustained, is set aside and the matter is remitted to the Respondents for fresh consideration of the reply dated 29.07.2019 given by the Petitioner through its Advocate in terms of the order dated 28.03.2018 in W.P. No. 21988 of 2003 passed by this Court. After affording full opportunity of hearing to the Petitioner, the Respondents shall consider each of the contentions raised by the Petitioner in the reply dated 29.07.2019 sent to the show cause notice No. AO (MFA)/SBT/COURT CASES/2003/FR dated 15.07.2019 and pass reasoned orders on merits in accordance with law and communicate the decision taken to the Petitioner under written acknowledgment.

4. It is informed by the Learned Counsel for the Petitioner that pursuant to the impugned order, by letter No. A.O.(TA)/GAC/2019/FR dated 15.11.2019, deductions have been made from the account of the Petitioner maintained with the First Respondent. It is open to the Petitioner to make necessary representation to the concerned authority for reversal of the entry and the Respondents shall pass appropriate orders thereon in accordance with law taking into consideration the aforesaid directions issued by this Court.

5. In the upshot, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Chairman,
Chennai Port Trust,
Rajaji Salai,
Chennai - 600 001.



2. The Deputy Conservator,
Chennai Port Trust,
Administrative,
Rajaji Salai,
Chennai - 600 001.

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+1cc to Mr.R.Karthikeyan, Advocate Sr.98142

W.P. No. 32653 of 2019

vg I[co]
srg 09/01/2020