IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2019

CORAM

The Honourable DR.JUSTICE ANITA SUMANTH

WP. Nos.30518, 30520, 30524 & 30527 of 2018
& W.M.P.Nos.35600, 35593, 35596 & 35603 of 2018

M/s.S.R.Marine Foods Private Limited
Represented by its
Authorised Signatory
Mr.K.V.Ramana ... Petitioner in W.P.No.30518 of 2018

M/s.Goldmarine Exports Pvt.Ltd.
Represented by its
Authorised Signatory
Mr.A.I.Sageer ... Petitioner in W.P.No.30520 of 2018

M/s.Britto Sea Foods Exports Pvt.Ltd.
Represented by its Director,
Mr.Agnello ... Petitioner in W.P.No.30524 of 2018

M/s.Aqua World Exports (Pvt.) Ltd.
Represented by its
Authorised Signatory
Mr.S.Haridas ... Petitioner in W.P.No.30527 of 2018

/Vs/

1. The Deputy Director,
   Directorate of Revenue Intelligence
   Regional Unit No.45 Jampuri Estate
   Bedi Bunder Road, Jamnagar 6.

2. The Senior Intelligence Officer,
   Directorate of Revenue Intelligence
   Regional Unit, No.45 Jampuri Estate
   Bedi Bunder Road, Jamnagar 6.

3. Additional Director General,
   Directorate of Revenue Intelligence
   27, Adarsh Towers G.N(Chetty) Road
   T Nagar, Chennai-017

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

(R3 suo motu impleaded vide order
of this Court dated 04.12.2018)

...Respondents in all WPs

C O M M O N P R A Y E R

WRIT PETITIONs under Article 226 of the Constitution in the nature of Mandamus directing the respondent to conduct necessary enquiry, if felt necessary, at the Chennai Regional Office of the Directorate of Revenue Intelligence and further refrain from collecting and demanding duty from the petitioner before issuance of a demand notice under Section 28 of the Customs Act, 1962.

For Petitioner : Mr.G.Derrick Sam

For Respondents : Mr.V.Sundareswaran
Senior Panel Counsel

C O M M O N O R D E R

These writ petitions have been filed with a common prayer of Mandamus directing the 1st respondent/the Deputy Director of Revenue Intelligence to conduct necessary enquiry at the Chennai Regional Office of the Directorate of Revenue Intelligence(DRI) if felt necessary instead of calling upon the petitioners to appear before the Officials at Jamnagar for the purpose of enquiry.

2. The petitioners have been exporting chilled sea food from the year 2015 and has been claiming benefit under the Merchandise Export from India Scheme (Scheme). The scheme has been introduced to facilitate the inflow of foreign exchange into the country. The admitted position is that the appendix to the scheme extends the benefit thereof only to ' frozen sea food' and not 'chilled sea food'. The export invoices and shipping bills admittedly reveal that the goods exported by the petitioner have been classified as 'chilled prawns and shrimp' only and the transactions in question have taken place within the jurisdiction of the Chennai Customs Authorities.

3. Be that as it may, the petitioner has approached this Court pursuant to a notice issued by the Director of Revenue Intelligence dated 31.10.2018, calling upon the petitioners to appear before the DRI in Jamnagar in the course of assessment proceedings and for the limited purpose of seeking a direction

https://hcservices.ecourts.gov.in/hcservices/

to the 1st respondent to conduct the enquiry proposed at Chennai itself.

4. Learned counsel for the petitioner does not and, rightly, challenge the fact that the DRI has an all-India presence. Thus, the DRI could well call upon assessees to appear before it at any location of its choice. Learned counsel for the respondent points out that enquiries relating to the present issue are on-going at Jamnagar and notices were thus being issued by the official Jamnagar only, though the assessee may be situated pan India.

5. There was, earlier, a challenge raised by similarly placed assessees and the Kerala High Court in Dolphin Wires Pvt. Ltd. Vs. The Senior Intelligence Officers and Others (WP(C) No.39791 of 2019)directed the local Kerala office of the DRI to cause enquiry after issuance of show cause notice to the petitioner, thus protecting the petitioner from appearing before the Officials at Jamnagar.

6. The petitioner also points out that in W.P.30524/18, one of the petitioners before me, Britto Sea Foods, had complied with the notice issued by the Jamnagar Authorities but had been coerced by the Authorities to sign an unfavourable and adverse statement prepared by the authorities, that was later retracted by the petitioner. According to learned counsel for the petitioner, there is thus a legitimate apprehension on the part of all the petitioners that similar coercive steps will be employed by the authorities at Jamnagar as in the case of petitioner in W.P.No.30524 of 2018. This submission is vehemently objected to by Mr.Sundareswaran.

7. Reference is also made to an order of this Court in Base Corporation Ltd. Vs. Union of India (1999) 113 ELT 27) wherein it has been held that issuance of notices by the DRI calling upon the assessees to appear before the officials elsewhere and merely prolonging action amounts to harassament of the petitioners. The DRI was directed in that case to hold an enquiry in the local offices and not to call upon the petitioner to appear before the Authorities out of State.

8. However, the counter filed by the respondents raises a valid point, that the officials of respondent nos. 1 and 2, situated at Jamnagar, being the Senior Intelligence Officers have engaged in thorough research, study and scrutiny of the issue on merits and are thus best equipped to take up investigation centrally and arrive at a proper conclusion upon the issue. They also state that similar investigation involving exporters in other parts of India have also been conducted at Jamnagar and show cause notice have already/are in the process of being issued to other such assessees.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

9. The submissions of the respondent appear logical and reasonable. It is quite acceptable that a team of Officers have been entrusted with the study required to understand and assess a group of assessees or a specific issue and in such cases it stands to reason that the enquiries are conducted by such officers. I am thus not inclined to accede to the request of the petitioners.

10. Bearing in mind the apprehension expressed by the petitioners as recorded in paragraph eight(8), the undertaking of Mr.Sundareswaran, learned Senior Panel Counsel to the effect that due process will be followed and the statements of the assessee will be recorded in conformity with law, principles of natural justice and the provisions of the Act is specifically recorded. It is made clear that the process of recording the statement shall be entirely voluntary and without any coercion as feared and alleged by the petitioners.

11. These Writ Petitions are disposed of directing the petitioners to appear before the authorities in Jamnagar for recording of sworn statements on a date mutually convenient to the petitioners as well as the officials to be fixed by the respondent by issuance of notice and in line with the observations as aforesaid. Consequently, connected miscellaneous petitions are closed. No costs.

ska

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते
WEB COPY

To

1. The Deputy Director,
Directorate of Revenue Intelligence
Regional Unit No.45 Jampuri Estate
Bedi Bunder Road, Jamnagar 6.

2. The Senior Intelligence Officer,
Directorate of Revenue Intelligence
Regional Unit, No.45 Jampuri Estate
Bedi Bunder Road, Jamnagar 6.

3. Additional Director General,
Directorate of Revenue Intelligence
27, Adarsh Towers G.N(Chetty) Road
T Nagar, Chennai-017

+1cc to Mr.V.Sundareswaran, Advocate, SR.No.25892
+4CCs to Mr.Hari Radhakrishnan, Advocate, SR.No.26116

WP. Nos.30518, 30520, 30524 & 30527 of 2018
& W.M.P.Nos.35600, 35593, 35596
& 35603 of 2018

Kak(21/06/2019)

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/