

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.4496 of 2020

M/s.Novel Impex,
Shop No.55, Amoluck Complex,
II Floor, No.3, Periya Naicken Street,
Sowcarpet, Chennai- 600 003.
By its Proprietor Mr.Narendra Kumar Vora. ..Petitioner

Vs.

- 1.The Commissioner of Customs (CFS)
No.60, Rajaji Salai, Customs House,
Chennai-600 001.
- 2.The Commissioner of Customs (Gr.3)
Chennai II Commissionerate,
No.60, Rajaji Salai,
Customs House,
Chennai-600 001.
- 3.The Deputy Commissioner of Customs (Gr.3),
Chennai II Commissionerate, No.60, Rajaji Salai,
Customs House, Chennai-600 001.
- 4.M/s.Ennore Cargo Container Terminal Pvt.Ltd.,
144, Kondakari Village, S.R.R.Palayam Post,
Chennai- 600 120. ..Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 to 3 herein to take appropriate action in a manner known to law as against the fourth respondent, M/s.Ennore Cargo Container Terminal Pvt. Ltd., Container Freight Station, Chennai, for violation of Handling of Cargo at Customs Area Regulations, 2009, as further amended, based on the various representations given by the petitioner, the latest representation being dated 13.11.2019.

For Petitioner : Mr.S.Baskaran

For Respondent : Mrs.Aparna Nandakumar
Nos.1 to 3

For Respondent-4: Mr.R.Sunitha Sunder

O R D E R

Today, the matter is listed through Video Conference. By consent of both the parties, the Writ Petition is taken up for final disposal.

2. The prayer in the present Writ Petition is for a direction to the respondents 1 to 3 to take action against the fourth respondent in connection with certain alleged non compliance of the orders of the Hon'ble Division Bench dated 24.09.2018 as well as the order granting waivering of demurrage charges. The petitioner herein had earlier given a representation ventilating his grievances to the respondents 1 and 2 herein dated 13.11.2019 and since the representation was not considered in time, the present Writ Petition has apparently been filed.

3. The decision as to whether any further course of action can be initiated on the basis of the representation is a decision to be taken by the concerned authorities and this Court may not be justified in stepping into the shoes of the authorities and thereby consider the representation. However, whenever a representation of this nature is made, there is a bounden duty on the concerned authority to consider the same by following the Principles of Natural Justice and non consideration of the representation may amount to dereliction of duties of the statutory authority and thereby, this Court may be justified in invoking its extraordinary powers under Article 226 of the Constitution of India and thereby direct the respondents to consider the petitioner's representation on its own merits.

4. In the light of the above observations, there shall be a direction to the first respondent herein to consider the petitioner's representation dated 13.11.2019 on its own merits and take further course of action in accordance with law after giving due opportunity of personal hearing to both the petitioner, as well as the fourth respondent herein. It is made clear that this Court has not expressed any of its views with regard to the merits of the claim made by the petitioner in his representation and that the first respondent herein is at liberty to consider the representation in the manner known to law. The first respondent shall endeavor to consider the representation, atleast within a period of twelve weeks from the date of receipt of a copy of this order.

5. With the above observations and directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

DP

To

- 1.The Commissioner of Customs (CFS)
No.60, Rajaji Salai, Customs House,
Chennai-600 001.
- 2.The Commissioner of Customs (Gr.3)
Chennai II Commissionerate,
No.60, Rajaji Salai,
Customs House,
Chennai-600 001.
- 3.The Deputy Commissioner of Customs (Gr.3),
Chennai II Commissionerate, No.60, Rajaji Salai,
Customs House, Chennai-600 001.
- 4.M/s.Ennore Cargo Container Terminal Pvt.Ltd.,
144, Kondakari Village, S.R.R.Palayam Post,
Chennai- 600 120.

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SSV(CO)
GMY (03/11/2020)

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