

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26686 of 2015

and

M.P.No.1 of 2015

M/s.Meticulous Forwarders,
Represented by its Proprietor,
Shri.G.V.Raajmohan,
166, Angappa Naick Street,
1st Floor, Chennai - 600 001. Petitioner

Vs.

- 1.The Commissioner of Customs,
Chennai VIII Commissionerate,
Custom House, No.60, Rajaji Salai,
Chennai - 600 001.
- 2.The Deputy Commissioner of Customs (CHA),
Custom House, No.60, Rajaji Salai,
Chennai - 600 001. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, call for the records pertaining to the impugned order-in-original No.38738/2015 dated 11.06.2015 in F.No.R-582/CHA passed by the 1st Respondent and quash the same.

For Petitioner : Mr.G.Derrick Sam
For Respondents : Mr.V.Sundareswaran,
Standing Counsel
O R D E R

The petitioner has challenged the impugned order dated 11.06.2015 revoking the license of the petitioner vide order-in-original No.38738/2015.

2.The impugned order has been passed pursuant to the show cause notice dated 02.07.2014 which is consequent to the proceedings initiated against the importer on 16.07.2012, which has culminated in an order-in-original No.24505/2014, dated

28.03.2014. In the said order, the petitioner has been called upon to pay a penalty of Rs.47,00,000/- under Section 112(a) of the Customs Act, 1962.

3.After passing of the aforesaid order, the petitioner's license was suspended on 05.06.2014 and the said order was confined by an another order dated 02.07.2014, bearing reference order-in-original No.27180/2014. On the date when the said order in original No.27180/2014 was passed, a show cause notice dated 02.07.2014 under Regulation 20 of the Customs Brokers Licensing Regulations, 2013, was issued which has culminated in the impugned order.

4.The learned counsel for the petitioner submits that under Regulation 20 of the Customs Brokers License Regulation, 2014, the limitation of 90 days is prescribed for issuing Show Cause Notice.

5.The learned counsel for the petitioner submits that, the issue in the case on hand is no longer res integra, and that it is squarely covered by the decisions of this Court rendered in a batch of cases in M/s.KTR Logistics Solutions Pvt.Ltd. Vs. The Commissioner of Customs and Another and etc., 2019 SCC OnLine Mad 9481 and in Santon Shipping Services Vs. The Commissioner of Customs and Another, 2017 SCC OnLine Mad 7084.

6.The learned counsel for the petitioner further submits that the issue was also settled by several decisions of this Court. Particularly, he drew my attention to the decision of this Court in Masterstroke Freight Forwarders Pvt.Ltd Vs.Commissioner reported in 2016 (332) E.L.T. 300 (Mad).

7.Mr.V.Sundareswaran, the learned Standing Counsel for the respondent drew my attention to the decision of the Division Bench of the Bombay High Court in Prinicipal Commr. Of CUS. Vs Unioson clearing Pvt. Ltd., 2018 (361) E.L.T. 321 (DB-Bom).

8.Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents.

9.Though the decision of the Division Bench of the Bombay High Court in Prinicipal Commr. of CUS. Vs. Unioson clearing Pvt.Ltd., 2018 (361) E.L.T.321 (DB-Bom), has given a different interpretation to the effect that the limitation prescribed in Regulation 20 of the Customs License Brokers Act, 2014 is directory and not mandatory, I am bound to follow the views taken by this Court in Santon Shipping Services Vs. The

Commissioner of Customs and Another, 2017 SCC OnLine Mad 7084 and Masterstroke Freight Forwarders Pvt. Ltd. Vs. Commissioner, 2016 (332) E.L.T. 300 (Mad).

10. Since the Show Cause Notice dated 07.07.2014 was issued beyond 90 days, the consequential order passed by the 1st respondent is liable to be quashed and is hereby quashed.

11. In view of the above, the present Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions is also closed.

Sd/-
Asst. Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

1. The Commissioner of Customs,
Chennai VIII Commissionerate,
Custom House, No.60, Rajaji Salai,
Chennai - 600 001.
2. The Deputy Commissioner of Customs (CHA),
Custom House, No.60, Rajaji Salai,
Chennai - 600 001.

+1 cc to Mr.V.Sundareswaran Advocate sr2835
+1 cc to Mr.Hariradhakrishnan Advocate sr2841

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