

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2020

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

Writ Petition No.5195 of 2016
& W.M.P.No.4568 of 2016

M/s. Wadpack Private Limited,
Represented by its Authorized Signatory, Mr.Sankar Narayanan
SW-20 Apparel Park, Phase II,
KIADB Industrial Area, Doddabalapur,
Bangalore Rural District 561 203 ... Petitioner

Vs.

1. Assistant Commissioner of Customs,
Group - 7, DEC, Customs House,
No.60 Rajaji Salai, Chennai 600 001
2. Union Bank of India, M-11 Middle Circle,
Con Circus, New Delhi 110 001
3. Joint Director General of Foreign Trade,
"Kendriya Sadan" 6th Floor, C&E Wing,
17th Main Road, Koramangala,
2nd Block, Bangalore 560 034 ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the 2nd respondent from making payment against Bank Guarantee No.49780 IGL0005112 dated 18.02.2012 issued at the behest of the petitioner for Rs.7,22,513/- in favour of the first respondent pursuant to letter dated 06.01.2016 of the first respondent pending receipt of Export Discharge Obligation Certificate (EODC) from the office of the third respondent in respect of Advance Authorization / Licence No.0710085451/3/03/00 dated 13.01.2012.

For Petitioner : Mr. R.Anish Kumar

For Respondents : Mr. A.P.Srinivas, SPC, for R-1,
No Appearance, for R-2,
Mr. B.Ramaratnam, CGSC, for R-3,

O R D E R

Today, this matter is taken up by this Court through Video Conferencing, CISCO Webex Meeting, on account of COVID-19.

2. According to the petitioner, they are the manufacturer of corrugated carton boxes at their factory at Doddaballapur in Bangalore. They clear the carton boxes manufactured by them to variety of customers, besides supplying the same to SEZ Units, which are deemed exports as specified under Chapter 8 of the Foreign Trade Policy (FTP). They were issued with Advance Authorization / Licence bearing No.0710085461, dated 13.01.2012, as per which, the petitioner had executed a bank guarantee for Rs.7,22,513/- from the second respondent in favour of the first respondent. Subsequently, the petitioner had fulfilled their export obligation. Vide letter dated 13.07.2015, they also submitted the relevant documents to the third respondent. In such circumstances, the petitioner received a letter dated 06.01.2016 addressed by the first respondent to the second respondent, to encash the said bank guarantee and remit the same by way of Demand Draft payable to the Commissioner of Customs, Chennai. Immediately, they sent a letter dated 19.01.2016 and reminder dated 06.02.2016 to the third respondent for issuance of the EODC. Finding no response on the said communications, the petitioner has filed this writ petition seeking a mandamus forbearing the 2nd respondent from making payment against the said bank Guarantee.

3. However, the learned counsel for the petitioner as well as the learned Standing Counsels appearing for the respondents fairly submitted that the remedy available to the petitioner as against recovery proceedings is only before the competent jurisdictional authorities of Karnataka State and hence, the petitioner may be given reasonable time to approach the authorities concerned for appropriate remedy.

4. Having regard to the aforesaid submissions, this Court, without going into the merits of the case, disposes of this writ petition, in the following manner:-

'The recovery proceedings by the respondents shall be kept in abeyance for a period of four weeks from today. The petitioner is granted four weeks time to approach the jurisdictional competent authorities before the State of Karnataka for

appropriate remedy. It is made clear that if the petitioner fails to avail this opportunity within a time frame stipulated by this Court, it is open to the respondents to take appropriate action in the manner known to law.''

No costs. Consequently, the connected MP is closed.

Sd/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

srk

To

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AK(CO)
RMP(04/09/2020)

सत्यमेव जयते

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