

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2020

CORAM

THE HONOURABLE **Dr. JUSTICE ANITA SUMANTH**

Contempt Petition No.1748 of 2019
Sub.A.Nos.475 & 476 of 2019

M/s. S.R.Marine Foods Private Limited
Represented by its Authorised Signatory
Mr.K.V.Ramana

... Petitioner in Contempt
petition and both Sub Applications

Vs.

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

... Respondent in Contempt
Petition and both Sub Applications

Prayer:- Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, praying to punish the respondent in for deliberately committing contempt of Court by wilful disobedience of the order dt. 19.03.2019 made in W.P.No.30518 of 2018.

Sub Application No.475 of 2019

To stay the operation of the letter dated 14.08.2019 issued in F.No. DRI.JRU/INT-07/2018-19/302 pending disposal of this contempt petition.

Sub Application No.476 of 2019

To direction restraining the Respondent from taking any coercive action pending disposal of this Contempt Petition.

For Petitioner	:	Mr.G.Derrick Sam
For Respondent	:	Mr.V.Sundareswaran Senior Panel Counsel

O R D E R

The petitioner has filed this petition alleging wilful disobedience order of this Court dated 19.03.2019. The order was passed in a batch of writ petitions and the petitioner had sought a mandamus directing the respondent authorities to conduct enquiry, if necessary, at the Chennai Regional Office of the Directorate of Revenue Intelligence and refrain from collecting or demanding duty from the petitioner prior to issuance of a proper demand notice.

2. The mandamus, as sought for was rejected by me. However, bearing in mind the apprehension that was expressed by the petitioner to the effect that the petitioner may be forced to sign an adverse statement pre-prepared by the authority, a specific undertaking from Mr.Sundareswarn, learned Senior Panel Counsel was obtained and recorded to the effect that due process would be

followed in the matter of recording of statements and the statements shall be entirely voluntary and without any coercion whatsoever.

3. Pursuant to the above order, it appears that the petitioner was summoned and an authorised representative appeared on 08.08.2018 before the officer. According to the petitioner, the representative was again forced to give a statement as per the whims and fancies of the officer. Thus, on the same day, after conclusion of proceedings, a complaint was sent to the authorities alleging violation of the directions of the Court and threatening the initiation of proceedings for contempt of Court, if the Officer concerned did not tender an unconditional apology for the manner in which the proceedings had been conducted.

4. Notice was issued to Mr.Sundareswaran and the records summoned to ascertain the facts as they had transpired. A letter dated 08.08.2019 signed by Mr.S.Anand, General Manager of the petitioner stating that '*with reference to the meeting held to at your office, I state that I came to represent my company not to give any statement rather I give my representation written*' is available on file. According to the petitioner, it is this letter that was obtained under coercion.

5. Mr.Sundareswaran, has filed a counter affidavit denying all allegations made and stating that officers were

performing their duties in line with settled procedure and the directions of this Court. He was asked to produce the docket sheet of proceedings on 08.08.2019 that would indicate the actual recording of proceedings by the Assessing Officer. This was sought, since the Court is now faced with conflicting versions of what had transpired at the hearing on 08.08.2019. Mr. Sundareswaran, on instructions confirms that the Officer has not recorded the office proceedings, since according to him, on the evening of that very day the officer had received a communication from the petitioners' counsel threatening contempt proceedings and was thus unsettled by the same.

6. I am not entirely convinced with the reasons for non-recording of office proceedings since it is incumbent on an officer, exercising quasi-judicial functions, to have prepared the docket sheet of proceedings for clarity and for proper record of what had transpired. If only the proceedings were available duly signed by the parties, it would have constituted a proper record, which the Court could have taken into account to arrive at the facts. In their absence and to put an end to this controversy right away, the petitioner is directed to appear before the respondent officer on Monday the 17th of February at his office at Jamnagar at 10.30 a.m. without expecting any further notice in this regard. The mutual

convenience of both the petitioner and respondent has been ascertained through their respective counsels prior to issuing this direction. This contempt petition is closed consequently connected Sub Applications are closed. No Costs.

SD/-

ASSISTANT REGISTRAR(OS)

ska

//Certified to be true copy//

Dated at Madras this the day of 2020.

COURT OFFICER(O.S.)

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Nrk/31/01/2020

To

1. M/s. S.R.Marine Foods Private Limited
Represented by its Authorised Signatory
Mr.K.V.Ramana

2. Dr.Rajesh K. Nagora
The Deputy Director,
Directorate of Revenue Intelligence
Regional Unit,
No.45, Jampuri Estate
Bedi Bunder Road, Jamnagar 6.