

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.Nos.36865 & 38393 of 2004
and W.M.P.Nos.44243 & 45934 of 2004

W.P.No.36865 of 2004 :-

M/s.Jakmans,
Rep., by its General Manager,
Mr.V.Chandrasekhar,
G.V.Plaza,
359, Poonamallee High Road,
Chennai-600 029. ... Petitioner

-vs-

1. The Union of India,
Rep., by Secretary,
Ministry of Textiles,
New Delhi.
2. Apparel Export Promotion Council,
Rep., by its Chairman,
N.B.C.C.Tower, 15, Bhikaji Cama Place,
New Delhi-110 006. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents herein to pay the petitioner an amount of US\$ 1,27,368.50, which is the value of the goods sent under textile Quota US 340 certificates bearing Nos. 1) 4IN115590 dated 29.9.2004, 2) 4IN1155989 dated 29.9.2004, 3) 4IN115591 dated 29.9.2004, 4) 4IN115592 dated 29.9.2004 and 5) 4IN1116468 dated 19.10.2004 issued by the respondent in excess than what they are entitled to and which caused loss to the petitioner.

W.P.No.38393 of 2004 :-

M/s.Meenakshi (India) Ltd.,
Rep., by Mr.P.Elumalai,
Export Executive/Authorised Signatory,
No.77 (SP) Ambattur Industrial Estate,
Chennai-600 058. ... Petitioner

1. The Union of India,
Rep., by Secretary,
Ministry of Textiles,
New Delhi.
2. Apparel Export Promotion Council,
Rep., by its Chairman,
N.B.C.C.Tower,
15, Bhikaji Cama Place,
New Delhi-110 006.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents herein to pay the petitioner an amount of US\$ 54,768.78, which is the value of the goods sent under textile Quota US 340 certificates bearing Nos. 1) 4IN1155334 dated 27.09.2004, 2) 4IN1155335 dated 27.09.2004 3) 4IN1155336 dated 27.09.2004 and 4) 4IN1155337 dated 27.09.2004 issued by the respondent in excess than what they are entitled to and which caused loss to the petitioner.

For Petitioner : Mr.Kiran Shetty
(In both W.Ps.) for Mr.Vijay Anand

For R1 : Mr.T.V.Krishnamachari,
(In both W.Ps.) Sr. Panel Counsel for Central Govt.

For R2 : Mr.A.Abdul Wahab
(In both W.Ps.)

COMMON ORDER

The issues raised in these writ petitions are adjudicated by this Court in W.P.No.4933 of 2005 and an order was passed on 06.08.2019. The relevant portions of the order dated 06.08.2019 are extracted hereunder:-

"2.A Division Bench of this Court had held in its order passed in W.A.Nos.3 to 22 of 1999, that the nature of transaction between the petitioner and the second respondent herein is a commercial transaction. Following the same, another learned Judge of this Court in a decision dated 09.08.2016 passed in W.P.No.21916 of 2005, had dealt with an identical issue and rejected the claim stating that the Writ Petition cannot be maintained, since the transaction was a commercial transaction. The relevant portion of the order reads as follows:-

"2.The petitioner seeks for a relief which is in the nature of a direction to the second respondent to effect payment of US \$ 141323.15, which is the value of the quota certificates issued by the second respondent. The petitioner would allege that on account of the negligence of the second respondent in issuing quota category US 340 in excess, they have caused loss to the petitioner.

3.The learned counsel appearing for the respondents pointed out that some what a similar issue was considered by the Hon'ble Division Bench of this Court in M/s.Samy Products and others v. Inspector of Factories, Tiruppur and others in W.A.Nos.3 to 22 of 1999 and the Hon'ble Division Bench pointed out that the nature of transaction between the appellants therein and the Apparel Export Promotion Council are commercial transactions and the appellants with their open eyes entered into the same and hence, if one of the parties do not honour the commitment and an action is taken against them, then the same cannot be treated as punishment. Though the issue that arose for consideration in the said batch of cases was slightly different, yet the legal principle which was laid down by the Hon'ble Division Bench was that the nature of transaction between the petitioner and the second respondent is a commercial transaction.

4.The learned counsel for the respondent also submitted that there are several decisions of this Court, wherein similar transactions were considered to be commercial transactions and relief was declined.

5.That apart, the petitioner seeks for a monetary claim by way of writ petition, that too, against the second respondent which is an independent body.

6.In view of the above stated position, no relief can be granted to the petitioner and consequently, the writ petition stands dismissed. No costs."

3.The claim made by the petitioner in the present writ petition is similar to that of the claim made in the aforesaid decision of this Court in W.P.No.21916

of 2005 and I am inclined to follow the same.

4.In the light of the decision rendered above and the observations made in this order, the writ petition does not deserve any interference. Accordingly, the Writ Petition stands dismissed. No costs."

2.The grievances raised by the writ petitioners in these writ petitions are also similar in nature and therefore, the said order would squarely apply with reference to the facts and circumstances of the cases on hand.

3.In view of the fact that the issues raised in these writ petitions were already considered and decided by this Court, these writ petition deserve no further adjudication and accordingly, the writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

abr

To

1. The Secretary,
Union of India,
Ministry of Textiles,
New Delhi.

2. The Chairman,
Apparel Export Promotion Council,
N.B.C.C.Tower, 15, Bhikaji Cama Place,
New Delhi-110 006.

+2cc to Mr.T.V.Krishnamachari, Advocate SR.No.25492,25493

W.P.Nos.36865 & 38393 of 2004

RK(CO)
HS(13/07/2021)