

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2021

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NO.3124 OF 2021

AND

WMP.NOS.3552 OF 2021

M/s.Souparnika Shipping Services,
(CHA/R.498/AAGPP8981KCH001)
New No.206, Old No.320, Second Floor,
Thambu Chetty Street, Mannady,
Cheenai 600 001,
Represented by its Proprietor,
Shri K.V.Prabhakaran

..... Petitioner

Vs.

1. The Joint Commissioner of Customs,
Chennai IV Commissionerate,
Custom House, No.60, Rajaji Salai,
Chennai - 600 001.
2. The Commissioner of Customs (Appeals),
Customs House, Kamarajar Salai,
Chennai.

..... Respondents

(R2 suo motu impleaded vide order
dated 12.02.2021 made in WP.No.3124 of 2021
by ASMJ)

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari, to call for records of the respondent in Order in Original No.78748/2020 dated 30.12.2020 issued from F.No.Adjn/SIIB/19/2019-CH-IV, imposing penalty on the Petitioner to an extent of Rs.50,00,000/- (Rupees Fifty Lakhs only), and quash the same, as the same is contrary and violative of the Principles of Natural Justice.

For Petitioner : Dr.S.Krishnanadh

For Respondents : Mr.A.P.Srinivas,
Senior Standing Counsel

ORDER

Heard learned counsel for the petitioner and learned Senior Standing Counsel for the respondents.

2. I had on 12.02.2021 passed the following order:

'Mr.A.P.Srinivas, learned Senior Standing Counsel accepts notice for the respondents and seeks some time to obtain instructions and file a counter.

2. The legal issue that arises for consideration is whether it is incumbent upon the respondent to extend an opportunity of cross examination of a person upon whom reliance is placed by the Officer in finalising the impugned assessment. Let case-law on this aspect be produced.

4. The respondent authority has passed an order dated 02.12.2020 rejecting the request of the petitioner for cross examination even prior to passing of the present impugned order, as against which, an appeal is stated to have been filed on 16.12.2020, pending before the Commissioner of Customs (Appeals).

5. The Commissioner of Customs (Appeals), Customs House, Kamarajar Salai, Chennai is impleaded suo motu as R2 and a direction issued to him to dispose the aforesaid appeal within a period of four (4) weeks from today after hearing the petitioner and after considering judicial precedents available on this point

3. I am given to understand that pursuant to the aforesaid order, the appellate authority has passed an order on 10.03.2021 allowing the appeal of the petitioner to the effect that the principles of natural justice will have to be complied with and the Assessing Authority should grant an opportunity of cross examination to the petitioner prior to finalization of assessment. A copy of this order is placed on file.

4. In such circumstances, the impugned order has no legs to stand, since it has, admittedly, been passed without affording an opportunity of cross examination to the petitioner and the same is set aside.

5. Let the petitioner be afforded an opportunity of cross examination, heard in full and an order of assessment be passed denovo within a period of six (6) weeks from today.

6. With the aforesaid direction, this writ petition is allowed and connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rkp

To

1. The Joint Commissioner of Customs,
Chennai IV Commissionerate,
Custom House, No.60, Rajaji Salai,
Chennai - 600 001.
2. The Commissioner of Customs (Appeals),
Customs House, Kamarajar Salai,
Chennai.

+lcc to Mr.A.P.Srinivas, Advocate, S.R.No.19562

+lcc to Mr.Sathish Sundar, Advocate, S.R.No.19879

W.P.No.3124 of 2021
and

WMP.Nos.3552 of 2021

MG (CO)
CS/07/04/2021

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