

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.28153 of 2015

and

M.P.No.1 of 2015

(Through Video Conferencing)

SP Container Line Private Limited,
Having its office at No.204, 2nd Floor,
Prestige Point, Old No.33,
New No.47/16, Haddows Road,
Nungambakkam, Chennai - 600 006. ... Petitioner

Vs.

- 1.The Deputy Director,
Directorate of Revenue Intelligence,
New No.25, Gopalakrishna (iyer) Road,
T.Nagar, Chennai - 600 017.
- 2.The Chief Commissioner of Customs,
No.60, 'Customs House', Rajaji Salai,
Chennai - 600 001.
- 3.OSL Shipping Agencies (India) Pvt. Ltd.,
Having its office at BWC Tower, A-Wing,
2nd Floor, New No.46/1, Old No.37/1,
Varadarajah Street, Clive Battery,
North Beach Road, 3rd Lane,
Chennai - 600 001. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st respondent to forthwith release the petitioner's container bearing No. ILCU5054272 and to compensate the petitioner for loss of business and loss of profits on account of the detention of the said container bearing No. ILCU5054272 by the 1st respondent.

For Petitioner	: Mr.K.F.Manavalan
For 1 st and 2 nd Respondents	: Mr.V.Sundareswaran
	Senior Standing Counsel
For 3 rd Respondent	: Mr.Hari Radhakrishnan

O R D E R

This Writ Petition has been filed to issue a writ of mandamus directing the 1st respondent to release the petitioner's container bearing registration No. ILCU5054272 and to compensate the petitioner for loss of business and loss of profits on account of the detention of the said container by the 1st respondent.

2. The petitioner is the owner of the Container which was detained by the 1st respondent as red sanders were attempted to be smuggled though it was purportedly hired for exporting polished granite tiles. The Commissioner of Customs vide Order-In-Original No.36164/2015 dated 31.03.2015 extended the time for issuing the Show Cause Notice. Pursuant to the aforesaid Order-In-Original No.36164/2015 dated 31.03.2015, a Show Cause Notice dated 02.10.2015 was issued under Section 124 of the Customs Act, 1962 by the Additional Director General of Directorate of Revenue Intelligence.

3. The learned counsel for the 3rd respondent submits that in the said Show Cause Notice, the petitioner was also a noticee. The said Show Cause Notice proceeding has culminated in Order-In-Original No.67523/2019 dated 12.02.2019 of the Commissioner of Customs (Chennai - IV), Chennai. It is submitted that as per the said order, the container of the petitioner was directed to be confiscated and it has been permitted to be redeemed on payment of redemption fine of Rs.25,000/-.

4. I have considered the submission of the learned counsel for the petitioner and the learned senior standing counsel for the 1st and 2nd respondent and the learned counsel for the 3rd respondent. I have perused the evidence on record.

5. Since an alternate remedy to challenge the order is available to the petitioner at this point of time, I permit the petitioner to pay the redemption fine "under protest" to have the container released as per Order-In-Original No.67523/2019 dated 12.02.2019 and file an appeal. Needless to state, the petitioner is entitled to canvass its rights as per the CBEC Circular dated 25.07.1995 bearing reference F.No.450/61/93 - Cus. IV. Such appeal shall be filed within a period of two weeks from the date of receipt of a copy of this order. Liberty is given to the petitioner to work out its remedy in accordance of law against the respondents.

6. This Writ Petition stands disposed of with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS)

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Sub Assistant Registrar

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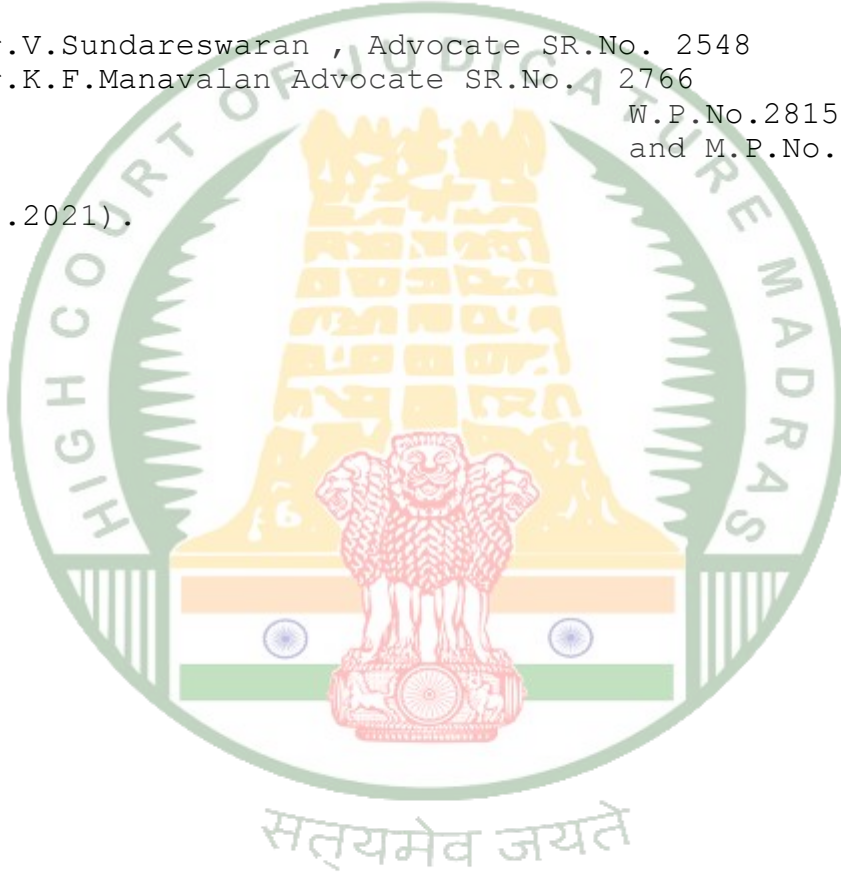
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- 2.The Chief Commissioner of Customs,
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Chennai - 600 001.

+1cc to Mr.V.Sundareswaran , Advocate SR.No. 2548

+1cc to Mr.K.F.Manavalan Advocate SR.No. 2766

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and M.P.No.1 of 2015

MP co
A.SK(16.02.2021).



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