

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.4940 of 2018  
and W.M.P.No.6092 of 2018

M/s. Boss Shipping Agencies Private Limited,  
Represented by its Director, D.Raghuveer  
Old No.14, New No.6,  
Jaffar Syrang Street,  
Chennai 600 001. .. Petitioner

vs.

1. The Commissioner of Customs,  
Chennai VIII Commissionerate,  
Customs House, No.60, Rajaji Salai,  
Chennai 600 001.
2. The Inquiry Officer,  
Assistant Commissioner of Customs (Group 2),  
Customs House, No.60,  
Rajaji Salai,  
Chennai 600 001. .. Respondents

Prayer.: Writ petition is filed under Article 227 of the Constitution of India, praying for a writ of Certiorari to call for the records pertaining to the impugned order in Original No.61674/2018 dated 06.02.2018 (Date of issue 07.02.2018) passed by the 1<sup>st</sup> respondent and quash the same.

For petitioner : Mr.G.Derrick Sam  
For Respondents : M/s.Aparna Nandhakumar

O R D E R

The petitioner has challenged impugned Order in Original No.61674 of 2018 dated 6.2.2018 passed by the first respondent. By the impugned order, the first respondent Commissioner has ordered continuation of the suspension of the license issue to the petitioner in the exercise of powers conferred under Regulation 19 (2) of the Customs Broker Licensing Regulation, 2013 after the license was originally suspended vide order dated 8.1.2018.

2. The impugned order also states that enquiry proceedings under Regulation 20 (1) of the aforesaid Regulation will follow in due course and that the impugned order has been issued without prejudice to any other action

that may be initiated against the petitioner and its employee/representative under the provisions of the customs law or any other law for the time being in force in the Union of India.

3. During the pendency of the present writ petition, an enquiry report dated 12.10.2018 was submitted by the second respondent. Meanwhile, the petitioner approached the Settlement Commission along with the importer and others to settle the case against show cause notice dated 30.9.2017 pursuant to which the petitioner's license was suspended on 8.1.2018 and thereafter continued vide impugned Order Original No.61674/2018 dated 6.2.2018.

4. The impugned proceedings are further challenged on the ground that the petitioner's counterpart namely M/s.Maharaja Cargo had been issued with show cause notice dated 11.9.2012 in respect of the same import made for M/s.Quality Lube Private Ltd and that by an Order in Original No. 25929/2014 dated 28.5.2014 the license of the said Customs broker was revoked. It is therefore submitted that the proceedings are beyond limitation. It is further submitted that on 30.12.2015 another show cause notice dated 1.7.2016 was issued to the said customs broker to show cause as to why the license issued to the said customs broker should not be revoked in terms of Regulation 18 of the Customs Broker Licensing Regulation, 2013.

5. It is submitted that the Settlement Commission has settled the case against the petitioner vide its order dated 18.3.2019 and therefore all proceedings which have their genesis pursuant to show cause notice dated 30.9.2017 are liable to be quashed. The respondents in their counter have justified the proceedings on the ground that investigation revealed that the petitioner had colluded with the importer and thereby attracted the provisions of the Customs Brokers Licensing Regulation, 2013 warranting a suspension of the license and thereafter its continuation. It is submitted that the impugned Order in Original No. 61674/2018 dated 6.2.2018 was issued after a show cause notice was issued to the petitioner within 90 days from the date of receipt of the offence report. In paragraph 4 of the counter, it is stated that the offence report was received on 30.11.2017 and therefore the respondents were justified in issuing the show cause notice within 90 days from the date of receipt of the said offence report. It is submitted that it is open for the petitioner to approach the Customs and Excise and Service Tax Appellate Tribunal, Chennai again the impugned order and therefore the present writ petition was liable to be dismissed.

6. I have heard the arguments advanced by the learned counsel for the petitioner and the respondents. I have also considered the records and the interim order passed by this

Court on 6.2.2019 and 6.3.2018 and its continuation until further orders by an order dated 28.6.2018.

7. In the light of the above interim order, the petitioner has been allowed to continue to operate as a Customs Broker for last 2 ½ years. Therefore, I am inclined to dispose this writ petition by directing the 1<sup>st</sup> respondent to complete the proceedings in the show cause notice dated 7.2.2018 within a reasonable time, in accordance with law.

8. During the pendency of the aforesaid proceeding before the 1<sup>st</sup> respondent, the status of the petitioner to continue as a customs broker shall remain untouched in the light of the interim order passed by this Court. All the questions are left open to be decided by the 1<sup>st</sup> respondent on merits. The petitioner shall co-operate with the respondents in the said proceeding. The 1<sup>st</sup> respondent shall pass appropriate orders on merits, within a period of three months from the date of receipt of a copy of this order.

9. The present writ Petition stands disposed with the above observation. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Customs,  
Chennai VIII Commissionerate,  
Customs House, No.60, Rajaji Salai,  
Chennai 600 001.
2. The Inquiry Officer,  
Assistant Commissioner of Customs (Group 2),  
Customs House, No.60, Rajaji Salai,  
Chennai 600 001.

+1cc to Mr.Hari Radhakrishnan, Advocate, S.R.No.13000.

+1cc to Ms.Aparna Nandakumar, Advocate, S.R.No.13569.

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PMK (CO)

CSR 29.03.2021

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