IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.26863 of 2016
and
W.M.P.No.23073 of 2016

M/s.Thriveni Earthmovers Private Limited,
Rep.by its General Manager (Administration)
Mr.S.P.R.Venkataachalam,
Having office at 22/110, Greenways Road,
Fairlands, Salem - 636 016. ...Petitioner

Vs

1.Joint Director General of Foreign Trade,
1544, India Life Building (Annexe), 1st Floor,
Trichy Road,
Coimbatore - 641 018.

2.The Deputy Director General of Foreign Trade,
O/o, The Joint Director General of Foreign Trade,
1544, India Life Building (Annexe), 1st Floor,
Trichy Road,
Coimbatore - 641 018.

3.Foreign Trade Development Officer,
O/o, the Joint Director General of Foreign Trade,
1544, India Life Building (Annexe), 1st Floor,
Trichy Road,
Coimbatore - 641 018.

4.The Additional Director General
Directorate of Revenue Intelligence
Kolkata Zonal Unit, 3rd Floor,
Suite No.17, No.8,
Ho-Chi-Minh Sarami,
Kolkata - 700 071. ...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned show cause notice dated 20.07.2016 issued in F.No.32/EPCG/Misc/AM15 by the 2nd respondent and quash the same.

For Petitioner : Mr.Vijay Narayan
Senior counsel
For M/s.Hari Radhakrishnan

For Respondents : R1 - M/s.S.Venkataswamy Babu
Senior Panel counsel

O R D E R

The writ on hand is instituted, questioning the legal validity of the show cause notice dated 20.07.2016 issued by the second respondent.

2. The petitioner is a company, engaged in the business of mining services. In the course of their business, the petitioner had obtained 38 Export Promotion Capital Goods (EPCG) authorisations, during the period 2004 to 2010. The said EPCG licences were used to import certain capital goods at concessional rate of duty and the petitioner had a corresponding export obligation to mine iron ore using these capital goods and export the same and thereby earn foreign exchange. The capital goods imported under the above EPCG authorisations were installed in the addresses mentioned and declared to the licencing authority viz., the Joint Directorate General of Foreign Trade, Coimbatore.

3. The petitioner had obtained the redemption certificate in respect of all the 38 licenses, which were issued from the office of the 1st respondent. In respect of 18 out of 38 licences, the petitioner admittedly could not fulfill the export obligation and therefore, the differential duty was paid along with the applicable interest. On payment of the differential duty along with the interest, the office of the 1st respondent had discharged the petitioner company from the export obligation imposed on the petitioner in respect of the said 18 licences.

4. The learned Senior counsel appearing on behalf of the writ petitioner mainly contended that the Show Cause Notice impugned lacks jurisdiction as the very initiation is beyond the period of limitation as contemplated under Section 16 of the Foreign Trade (Development and Regulation) Act, 1992 [hereinafter referred to as the 'Act'].

5. Though the impugned show cause notice has been issued by stating that it was issued under Section 14 of the Act, factually it cannot be issued under Section 14 of the Act. For all purposes, it is to be construed that the show cause notice was issued under Section 16 of the Act as the Certificate of discharge issued by the competent authority became final and against such certificate, only review would lie and a show cause

notice cannot be issued, which is otherwise contemplated as the procedures to be followed in certain circumstances.

6. The learned Senior counsel for the petitioner is of an opinion that the Redemption certificate issued in respect of all the 38 licenses cannot be reopened by issuing a show cause notice under the guise of Section 14 of the Act. If at all any further initiation is required, it must be under Section 16 by way of review by the competent authority and by complying with the period of limitation as contemplated under Section 16 of the Act. The period prescribed is two years and in the present case, the impugned show cause notice admittedly was issued beyond the period of two years and therefore, the impugned show cause notice is lacking jurisdiction and thus, to be set aside.

7. The learned Senior counsel for the petitioner in support of the said contention, relied on the judgment of the High Court of Gujarat in the case of Alstom India Limited Vs. Union of India reported in 2014 (301) E.L.T. 446 (Gujarat). Relying on the said judgment, the High Court of Madras also passed an order on 02.09.2020 in W.P.Nos.21689 to 21696 of 2016, wherein the learned Single Judge of the High Court of Madras relied on the judgment of the High Court of Gujarat cited supra and relied on the judgments of M/s.Simplex Infrastructures Limited Vs. Union of India & others in W.P.(c).No.4455 of 2013, decided by the Delhi High Court and allowed the writ petition on the ground that the order issued beyond the period of two years under Section 16 was without jurisdiction.

8. The relevant paragraphs of the judgment dated 02.09.2020 in W.P.Nos.21689 to 21696 of 2016 are extracted hereunder:

> “4. Secondly, he submitted that the impugned notices have been issued after about 10 years from the issuance of the EOD Certificate which is contrary to the limitation prescribed under the proviso to Section 16 of the Act, which prescribes a period of two years for such a power to review.
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> 7. As rightly pointed out by the learned counsel for the petitioner, Section 16 of the FTDR Act empowers the Director General to review any decision or order made by the Joint Director of Foreign Trade. The power of review of any decision or order is only under Section 16.
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> 8. As and when the second respondent had issued the EPCG licence and the Export Obligation Discharge Certificate, he becomes “functus officio” and if at all, such an order of the second respondent is to be reviewed, the same can be done only by the Director General, as provided under Section 16. Apparently, the impugned notice issued by the second respondent itself

is without any jurisdiction and contrary to the statutory provisions.

9. The learned counsel for the petitioner relied upon the decision of the Gujarat High Court in the case of Alstom India Ltd., Vs. Union of India reported in 2014 (301) E.L.T. 446 (Guj.) on this proposition. The relevant portion of the order reads as follows:-

> "31. On going through the provisions of the FTDR Act, we find that those do not grant power to the Respondent No.2 or its subordinates to redetermine or re-verify the deemed export benefits if such benefits have been approved or granted as per the provisions of the FTDR Act except by way of review as provided in Section 16. In the absence of any power under FDR Act, the Respondent No.2 or its subordinates cannot assume quasi-judicial power for instance, the power to re-determine or re-verify under the administrative guidelines i.e. Para 7 of the ANF-8 Form. Therefore, by virtue of Para 7 of the ANF8, the Respondent No.2 is deriving the quasijudicial power which is beyond the provisions of FTDR Act. We have already pointed out that according to Section 6 of the FTDR Act, the Respondent No.2 or the officer subordinate to him cannot usurp the power under Sections 3, 5, 15 and 19 of the FtDR Act. According to Section 3, it is for the Central Government which may, by Order published in the Official Gazette, make provision for the development and regulation of foreign trade by facilitating imports and increasing exports.
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> ...
>
> 32.1 Section 16. on the other hand, authorizes the Central Government, in the case of any decision or order made by the Director General, or the Director General in the case of any decision or order made by any officer subordinate W.P.(C)4455/2013 Page 7 to him, to act on its own motion or otherwise, by calling for and examining the records of any proceeding for the purpose of satisfying itself or himself, as the case may be, as to the correctness, legality or propriety of such decision or order and make such orders thereon as may be deemed fit. The proviso. however, says that no decision or order shall be varied under section 16 so as

to prejudicially affect any person unless such person has, within a period of two years from the date of such decision or order, received a notice to show cause why such decision or order shall not be varied and has been given a reasonable opportunity of making representation, and, if he so desires, of being heard in defence.

...

33.We, thus, find that although specifically prohibited under Section 6 of the Act, the DGFT has been illegally vested with the power to intervene in the subject matters coming within the purview of Sections 3, 5, 15, 16 and 19 in clear violation of sub section(3) of Section 6 of the FTDR Act. In other words, what is specifically prohibited by the FTDR Act, by taking aid of the HOP, the D.G.F.T has assumed such power in colourable exercise of the power conferred upon it.

10. Following the aforesaid decision in Alstom India Limited, a Division Bench of the Delhi High Court in Simplex Infrastructure Ltd., Vs. Union of India & others in WP.(c) No.4455 of 2013 had held that Joint DGFT has no powers to review his own orders in view of Section 16 of the FTDR Act. The relevant portion of the order reads as follows:-

"4. ... Further, it is argued that the power to review an order under the policy is granted to the DGFT under Section 16 of the Act, which in this case was impermissibly exercised by the Deputy DGFT. .. .. 8. In this case, the impugned order-inoriginal, which acted upon the decision taken by the PIC, is of the Joint DGFT, dated 30 th March, 2012. Clearly, in terms of the decision in Alstom (supra), with which this Court concurs, there can be no review of an earlier refund except in accordance with the provision of Section 16 of the FTDR Act, which only permits the DGFT or the Central Government (in case the original order was by the DGFT) to exercise the power of review."

14. For all the foregoing reasons, the impugned notices dated 26.02.2016 passed by the second respondent herein are hereby quashed. Consequently, connected Miscellaneous Petition is closed. The Writ

Petitions stand allowed. No costs.”

9. Relying on the said judgment, the learned Senior counsel contended that the facts in the present writ petition are almost similar and therefore, the impugned show cause notices are to be declared as void, in view of the fact that the said notices are issued, beyond the period of limitation, more so, under an inapplicable provision.

10. It is further contended that the show cause notice has been issued by an authority, who is subordinate to an officer, who issued the redemption certificate. Therefore, the subordinate authority has no authority to review the order passed by the higher authority and even on that ground also, the writ petition is to be allowed.

11. The learned Senior Panel counsel objected the contentions raised on behalf of the writ petitioner and drew the attention of this Court with reference to the provisions of the Act. Before that, the learned Senior counsel contended that the impugned show cause notice was issued, under Section 14 for action under Section 10 & 11 (2) of the Act and Section 14D of Foreign Trade (Development & Regulation) Amendment Act, 2010 for cancellation of EODCs regarding. The show cause notice was issued based on the report submitted by the Directorate of the Revenue Intelligence to the respondents and therefore, it is a new cause of action for the purpose of issuing show cause notice and it is unconnected with the redemption certificate already issued based on certain documents filed by the Petitioner. In view of the fact that the show cause notice is the original action initiated pursuant to the report submitted by the Directorate of Revenue intelligence, the same cannot be compared with the review provision for review under Section 16 of the Act.

12. The learned Senior Panel counsel referred Section 11 of the Act, which stipulates “Contravention of provisions of this Act, rules, orders and foreign trade policy”. Sub-section (2) and Sub-section (3) to Section 11 of the Act reads as under:

> “(2) Where any person makes or abets or attempts to make any export or import in contravention of any provision of this Act or any rules or orders made thereunder or the foreign trade policy, he shall be liable to a penalty of not less than ten thousand rupees and not more than five times the value of the goods or services or technology in respect of which any contravention is made or attempted to be made, whichever is more.
>
> (3) Where any person signs or uses, or causes to

be made, signed or used, any declaration, statement or document submitted to the Director General or any officer authorized by him under this Act, knowing or having reason to believe that such declaration, statement or document is forged or tampered with or false in any material particular, he shall be liable to a penalty of not less than ten thousand rupees or more than five times the value of the goods or services or technology in respect of which such declaration, statement or document had been submitted, whichever is more."

13. Section 14 of the Act denotes Giving of opportunity to the owner of the goods, etc., and reads as under:

"No order imposing a penalty or of adjudication of confiscation shall be made unless the owner of the goods or conveyance, or other person concerned, has been given a notice in writing -

(a) informing him of the grounds on which it is proposed to impose a penalty or to confiscate such goods or conveyance; and

(b) to make a representation in writing within such reasonable time as may be specified in the notice against the imposition of penalty or confiscation mentioned therein, and, if he so desires, of being heard in the matter."

14. Section 16 contemplates "Review", which reads as under:

"The Central Government, in the case of any decision or order, made by the Director General, or the Director General in the case of any decision or order made by any officer subordinate to him, may on its or his own motion or otherwise, call for and examine the records of any proceeding, for the purpose of satisfying itself or himself, as the case may be, as to the correctness, legality or propriety of such decision or order and make such orders thereon as may be deemed fit:

Provided that no decision or order shall be varied under this section so as to prejudicially affect any person unless such person -

(a) has, within a period of two years from the date of such decision or order, received a notice to show cause why such decision or order shall not be varied, and

(b) has been given a reasonable opportunity of making representation and, if he so desires, of being heard in his defence."

15. Relying on Sub Section 3 to Section 11 of the Act, the learned Senior panel counsel reiterated that " Where any person signs or uses, or causes to be made, signed or used, any declaration, statement or document submitted to the Director General or any officer authorized by him under this Act, knowing or having reason to believe that such declaration, statement or document is forged or tampered with or false in any material particular, he shall be liable to a penalty"

16. Therefore, the question of traceability of such forged or tampered with or false document would arise only if any contra materials are made available to the Department. In the present case, the Director of Revenue Intelligence submitted a report that fraudulent activities were identified and further, directed to initiate action for cancellation of redemption certificate already issued. Thus, the cause of action arose for initiation of action based on the Intelligence report, which states that certain forged and fraudulent activities were carried out and by the petitioner. The original redemption certificate was issued based on the documents furnished by the petitioners in a usual manner and there was no adjudication as such in respect of these aspects at the time of issuing redemption certificate at the first instance. When routine procedures are followed in issuing certain certificate based on the informations and details furnished by the person concerned and subsequently, the authorities came to understand that such certificate or document are forged or fabricated one, then the Act contemplates action is to be initiated and in such circumstances, a show cause notice under Section 14 is to be issued in order to comply with the principles of natural justice and to provide opportunity, enabling the person to defend their case in the manner known to law.

17. The learned Senior Panel counsel contended that the power of Review contemplated under Section 16 is general in nature. The Central Government, in the case of any decision or order, made by the Director General, or the Director General in the case of any decision or order made by any officer subordinate to him, may on its or his own motion or otherwise, call for and examine the records of any proceeding, for the purpose of satisfying itself or himself, as the case may be, as to the correctness, legality or propriety of such decision or order. Therefore, application of Section 16 would be made available in certain circumstances, where an order is passed after adjudication or on merits as the case may be and in the present case, the redemption certificate is issued based on the informations provided by the petitioners. Thus, such redemption certificate and the subsequent actions cannot be compared and suspension or cancellation of license is contemplated under Section 14-D of the Act. For the purpose of such cancellation, a

notice under Section 14 is mandatory and therefore, the actions initiated are independent and unconnected with the redemption certificate issued. The issues may be interconnected, but cause of action is entirely independent and fresh, based on the report of the Director of the Revenue Intelligence.

18. The learned Senior Panel counsel has further stated that the report of the Revenue Intelligence provides materials for initiation of action and such materials are vital for the purpose of continuing the action and the writ petition is filed, challenging the show cause notice and therefore, the writ petition itself is not maintainable and the petitioner has to defend its case by submitting their objections/defense by availing the opportunities provided under the provisions of the Act.

19. Considering the arguments as advanced by the learned Senior counsel appearing on behalf of the petitioner and the learned Senior Panel counsel appearing on behalf of the respondents, the question of importance arose, whether an action initiated for cancellation of certificate based on the Intelligence report is to be construed as an order, which is to be reviewed under Section 16 or to be taken as a fresh cause of action for the purpose of initiation of further proceedings by issuing a show cause notice under Section 14 of the Act.

20. The arguments as advanced by the learned Senior counsel for the petitioner that the redemption certificate is a proceedings issued by the third respondent in the present case and for cancellation of such redemption certificate, the power of review under 16 alone is exercisable and show cause notice under Section 14 would not lie.

21. In reply, the learned Senior Panel counsel said that it was not an order passed after adjudication and redemption certificate was issued based on the informations furnished by the petitioner and such certificate cannot be construed as an adjudicated order for all purposes in order to exercise the power of review under Section 16 of the Act.

22. The scheme of the Act provides Power relating to Search and Seizure under Section 10 of the Act. The Central Government shall authorize any person to enter into the premises, where the goods are kept, stored or processed, manufactured, traded or supplied or received for the purpose of import or export and searching, inspecting and seizing of such goods, documents, things and conveyances connected with such import and export of goods. In the event of any such Search and Seizure, then if the report is filed, then Section 11 stipulates Contravention of provisions of this Act, rules, orders and foreign trade policy. Sub-Section (2) states that "Where any person makes or abets or

attempts to make any export or import in contravention of any provision of this Act or any rules or orders made thereunder or the foreign trade policy, he shall be liable to a penalty as stated subsequently.” Sub-Section 3 to Section 11 unambiguously stipulates that “Where any person signs or uses, or causes to be made, signed or used, any declaration, statement or document submitted to the Director General or any officer authorized by him under this Act, knowing or having reason to believe that such declaration, statement or document is forged or tampered with or false in any material particular, he shall be liable to a penalty.”

23. Sub Section 3 to Section 11 would be coming into operation only if any person submits a document, statement to the Director General or any officer authorized by him and such documents are subsequently found forged or tampered with or false in any material particular. Therefore, the circumstances of invoking the provisions for issuance of show cause notice would arise only if any person submits a document or statement etc., as contemplated under sub-section (3) to Section 11 and such documents are found to be false, forged or fraudulent.

24. If any such declaration statement or document is submitted to the Director General or any officer is identified as forged, tampered with or false, then Section 14 would come into operation, where the authority is bound to provide an opportunity to such person to defend his case for the compliance of the principles of natural justice. Thereafter, Section 14-D contemplates suspension or cancellation of a license. Therefore, the suspension or cancellation of a license is relatable to the redemption certificate. Section 14-D contemplates that “the Director General or an officer authorised by him may, by order, suspend or cancel a licence to import or export of specified goods or services or technology without giving the holder of the licence a reasonable opportunity of being heard but such person shall be given a reasonable opportunity of being heard within six months of such order and thereupon the Director General or the officer so authorised may, if necessary, by order in writing, confirm, modify or revoke such order.” After Section 14-D of the Act, Section 16 would come into picture. Section 16 contemplates Review and therefore, such Review is exercisable in respect of an order passed, suspending or cancelling the license and before passing any such suspension or cancellation of license, Section 14, Giving of an opportunity became mandatory.

25. Close reading of the scheme of the Act would reveal that the Power of review is exercisable if an order of suspension or cancellation of license is passed by following the procedures as contemplated under the other sections as discussed in the aforementioned paragraphs.

26. In the present case, the redemption certificate issued by the third respondent states that based on the statement of exports made by the petitioner, the certificate was issued. The competent authority issued a certificate, stating that export obligation has been fulfilled and such a certificate issued cannot be considered as an order passed after adjudication of issues. Redemption certificate is issued and subsequently, the Director of Revenue intelligence gathered information, stating that the petitioner had submitted false and forged document for the purpose of getting the redemption certificate. The relevant portion of the report dated 08.06.2016 submitted by the Directorate of Revenue Intelligence reads as under:

> "5. From the copes of form ANF5B, some of which were submitted by Thriveni Earth Movers Pvt Ltd., and some received from Assistant Director General of Foreign Trade, Coimbatore, it is found that export obligation was claimed to have been fulfilled against export made by one J J S Ahluwalia. K J S Ahluwalia is a separate firm who had taken iron ore mines on lease from Odisha government. Thus, it can be seen that Thriveni Earth Movers Ltd., is not the owner of the iron ores exported by K J S Ahluwalia and as such the export made by K J S Ahluwalia cannot be termed as third party export. In fact Thriveni Earch Movers admitted that neither they were owner of the iron ores exported by K J S Ahluwalia nor the exported iron ores were mined by them. Further, K J S Ahluwalia is a totally separate business entity and Thriveni Earth Movers Pvt Ltd failed to submit any documents in course of investigation to prove that K J S Ahluwalia is one of their group companies.
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> 6. From foregoing it can be seen that Thriveni Earth Movers Pvt Ltd procured EPCG licenses misdeclaring their status as manufacturer - exporter. The imported machines were installed in the mines, not at their factory premises. Installation certificates were obtained from Chartered Engineer which is not permissible in case of manufactures. For fulfillment of export obligation they showed export of iron ore made by another concern. The exported iron ore was not owned by them nor mined by them. It thus appears that they have obtained the EODC fraudulently from DGFT by mis-declaring material facts and the same needs to be cancelled.
>
> 7. It is therefore requested to take necessary action accordingly and cancel the said EODCs. DRI, Kolkata may be intimated regarding action taken at your end so that show cause notice under Customs Act can be issued against Thriveni Earth Movers Pvt Ltd., for Customs duty evasion of estimated Rs.7.64 Crores."

27. Once the Intelligence wing submitted a report, based on the materials gathered that the petitioner had submitted some false statement or forged documents and obtained certificate, then it is necessary to provide an opportunity to the person, enabling him to defend his case. If at all, the report of the Directorate of Intelligence is incorrect on facts or otherwise, the petitioner is bound to defend his case by producing the documents and evidences to establish his innocence or otherwise.

28. Presuming that if the provisions of the Act is interpreted as if the unadjudicated redemption certificate issued based on the informations furnished by the petitioner is accepted as final, then there no possibility of unearthing such fraudulent or false certificate, if any produced by any such person during the course of importing or exporting. Thus, the purpose of the Act is to be interpreted constructively and more so, a purposive interpretation is to be adopted in a pragmatic manner, so as to ensure that the circumstances as contemplated are dealt with in a manner for the purpose of achieving the legislative intention. It may appears to be that Section 16 would be relevant in such circumstances, where a certificate is issued. However, the legislative intention and the other provisions contemplated are more relevant for the purpose of forming an opinion that where an Intelligence Report is submitted, then the Scheme of the Act in entirety is to be interpreted, so as to ensure that such circumstances are also dealt with by following the procedures.

29. As far as the judgment of the High Court of Madras, it is not discussed, whether the notice was issued under Section 14 or under Section 16 of the Act. The case was proceeded on the basis that power under Section 16 for review is to be exercised within a period of 2 years as contemplated. It is not in dispute that in case of review, the period of limitation as contemplated is to be adhered to scrupulously. However, whether the case is falling under Section 16 or not, requires an adjudication based on the facts and circumstances and therefore, the judgment relied on dated 02.09.2020 in W.P.Nos.21689 to 21696 of 2016 cannot be applied with reference to the facts and circumstances of the present case.

30. Even in case, certain similarities are available, in the present case, the respondents could able to furnish the copy of the communication of Director of Revenue Intelligence to the respondents dated 08.06.2016 and perusal of the findings would reveal that certain serious irregularities, illegalities were committed and therefore, action under the provisions of the Act is certainly imminent. If the mining operations, exports, imports are done in a particular manner and the redemption certificates are allowed to remain merely based on the statement

given by the licencee, then the consequences would be disastrous and therefore, this Court is of the considered opinion that the power of review under Section 16 is exercisable only if any order of suspension or cancellation is made under Section 14-D of the Act. The mining operations are done in the State of Orissa. The redemption certificates were issued by the authority at Coimbatore. The Revenue Intelligence from Kolkatta, State of West Bengal traced out the illegalities and irregularities in mining exports and imports. Therefore, the authority at Coimbatore issued the certificate merely based on the information provided by the petitioner and the said certificate therefore, cannot be construed as final for the purpose of initiating action under Section 14 of the Act.

31. The impugned show cause notice issued by the respondent on 20.07.2016 categorically states that “Show Cause Notice under Section 14 for action under Section 10 & 11(2) of FT (D&R) Act, 1992 and Section 14D of Foreign Trade (Development and Regulation) Amendment Act, 2010 for cancellation of EODCs”. Thus, the intention as well as the purpose for which such show cause notice was issued have been categorically stated in the show cause notice itself. The respondents have initiated action by issuing a show cause notice under Section 14 of the Act for the purpose of continuing action for cancellation of EODCs by exercising the powers under 14-D of the Act and for that purpose, the opportunity is provided to the petitioner. When the respondent could able to establish that there is a fresh cause of action after issuing the redemption certificate arose due to the report of the Director of Revenue Intelligence, and such report is the cause for issuing a show cause notice under Section 14 for the purpose of initiating action under Section10 & 11 (2) of FT (D&R) Act, 1992, thereafter, if necessary, an order under Section 14-D is to be passed, then Section 16 Review would apply only if any such final orders are passed under Section 14-D of the Act and not otherwise.

32. In respect of the contention that Subordinate officer issued the show cause notice, this Court is of the considered opinion that the provisions would reveal that the actions are initiated for submitting false and forged documents and therefore, show cause notice is to be issued by the original authority and if a final order is passed under Section 14-D of the Act, thereafter, the power of Review under Section 16 is exercisable.

33. This being the scope of the provisions of the Act, the contentions raised that the redemption certificate is final order, which can be reviewed under Section 16 of the Act is untenable and the redemption certificates issued based on the informations furnished by the petitioner, can never be construed

as an order issued after adjudication for the purpose of exercise of power of review and therefore, the impugned show cause notice is issued, based on the report submitted by the Director of Revenue Intelligence, which is a fresh cause of action and more so, in respect of the documents furnished by the petitioner for the purpose of getting a redemption certificate and thus, such illegality or irregularity if any noticed, is to be proceeded with by following the procedures as contemplated under law.

34. The petitioners are at liberty to avail the opportunities by defending their case in the manner known to law and prove their innocence or otherwise before the authorities competent by responding to the show cause notice.

35. In view of the fact that the petitioner has not established the jurisdictional point as raised, the petitioner is at liberty to defend their case by submitting objections / defense statements by availing the opportunities to be provided. The time granted in the impugned show cause notice is extended and accordingly, the petitioner is at liberty to submit their explanation / defense statements and the documents and evidences, if any, to the respondents within a period of four weeks from the date of receipt of a copy of this order and on receipt of any such objections / defense statements etc., if any received from the petitioners, the respondents shall proceed further by following the procedures as contemplated under the Act.

36. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

Kak

To

1.The Joint Director General of Foreign Trade,
1544, India Life Building (Annexe), 1st Floor,
Trichy Road, Coimbatore - 641 018.

2.The Deputy Director General of Foreign Trade,
O/o, The Joint Director General of Foreign Trade,
1544, India Life Building (Annexe), 1st Floor,
Trichy Road, Coimbatore - 641 018.

3.The Foreign Trade Development Officer,
O/o, the Joint Director General of Foreign Trade,
1544, India Life Building (Annexe), 1st Floor,
Trichy Road, Coimbatore - 641 018.

4.The Additional Director General
Directorate of Revenue Intelligence
Kolkata Zonal Unit, 3rd Floor,
Suite No.17, No.8, Ho-Chi-Minh Sarami,
Kolkata - 700 071.

+1cc to Mr.Hari Radha Krishnan, Advocate, S.R.No.42919
+1cc to Mr.Venkataswamy Babu, Advocate, S.R.No.42467

W.P.No.26863 of 2016

PMK(CO)
GN(20/09/2021)