

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.14725 of 2020

and

W.M.P.No.18296 of 2020

M/s.Hyundai Steel Pipe India Pvt.Ltd.,
(Formerly known as M/s.Automotive Steel
Pipe India Private Limited),
Represented by its Director, Mr.Jungdae Park,
Aged 50 years,
No.49, Sengadu Village,
Sriperumbudur - Manavalanagar Via,
Kanchipuram District - 602 002.

Petitioner

Vs

1.The Chairman,
Policy Relaxation Committee,
Udyog Bhawan,
H Wing, Gate No.2,
Maulana Azad Road,
New Delhi - 110 001.

2.The Joint Director General of Foreign Trade,
Shastri Bhawan Annexe,
26, Haddows Road,
Chennai - 600 006.

3.The Assistant Commissioner of Customs,
EDC Section,
Custom House,
No.60, Rajaji Salai,
Chennai - 600 001.

Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, calling for the records of the 1st respondent culminating in the issue of the Decision dated 06.08.2019 issued from File No.01/60/162/292/AM20/PRC in Meeting No.14/AM20 and quashing the same direct the respondents to consider their representation on merits for discharge of export obligation in

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full in terms of Advance Authorisations in accordance with law with consequential relief.

For petitioner ... Mr.S.Murugappan.
For Respondents ... Mr.R.Sankara Narayanan,
Addl. Solicitor General
for Government of India
for R1 & R2.
Ms.M.Sheela, SPC for R3.

ORDER

Heard Mr.S.Murugappan, learned counsel for the petitioner, Mr.R.Sankara Narayanan, learned Additional Solicitor General accepts notice for the respondents 1 and 2 and Ms.M.Sheela, learned Senior Panel Counsel accepts notice for the 3rd respondent.

2. By consent of both the parties, this writ petition is taken up for final disposal at the time of admission itself.

3. This writ petition has been filed challenging the order dated 6.08.2019 passed by the first respondent rejecting the petitioner's request to count the export of 11 shipping bills in which the advance authorisation was not mentioned by the CHA due to clerical mistake towards discharge of EO against the advance authorisation No.0410159450, dated 19.09.2014.

4. According to the petitioner, advance authorisation number relevant to their imports and exports was not mentioned by their CHA due to clerical mistake and therefore, duty drawback was not claimed by them in respect of 11 shipping bills. According to the petitioner, the 11 shipping bills filed by the petitioner were filed under EPCG scheme and it was inspected by Chennai Customs at the time of exports. According to the petitioner there was no ambiguity as they received payments from their customers for all the goods exported by them under the EPCG scheme. Hence, it is the case of the petitioner that they are entitled for redemption certificates for all the exports made by them including the 11 shipping bills, where they had inadvertently mentioned the wrong licence number.

5. The learned counsel for the petitioner drew the attention of this Court to the representation given by the petitioner to the 3rd respondent on 28.03.2019 requesting the 3rd respondent to amend the aforementioned 11 shipping bills, in view of the fact that EPCG licence number was wrongly mentioned

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due to a clerical mistake.

6. Admittedly any request for amendment of shipping bills can be considered only by the 3rd respondent. Admittedly, the representation of the petitioner dated 28.03.2019 requesting for amendment of the aforementioned 11 shipping bills has not been considered till date. Unless and until final orders are passed on the representation made by the petitioner seeking for amendment of 11 shipping bills, the first respondent cannot consider issuance of redemption certificates for the said 11 shipping bills. Hence, this Court is of the considered view that the 3rd respondent will have to necessarily consider the petitioner's representation seeking for amendment of 11 shipping bills on merits and in accordance with law. Once final orders are passed on the petitioner's representation by the 3rd respondent, the first respondent shall consider the petitioners request for issuance of redemption certificates for the aforementioned 11 shipping bills and pass final orders on the said request.

7. For the foregoing reasons, this Court directs the 3rd respondent to consider the petitioner's representation dated 28.03.2019 requesting the 3rd respondent to amend the following 11 shipping bills

Sl.No.	S.B.No.	S.B. Date
1	5560129	30/Jan/2016
2	5704129	06/Feb/2016
3	5821766	12/Feb/2016
4	6128808	27/Feb/2016
5	6123507	27/Feb/2016
6	6556161	19/Mar/2016
7	6556170	19/Mar/2016
8	6840754	02/Apr/2016
9	6835714	01/Apr/2016
10	7169475	20/Apr/2016
11	7378628	30/Apr/2016

and pass final orders on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order. Once final orders are passed by the 3rd respondent, the petitioner is granted liberty to approach the first and second respondents by giving a separate representation seeking for issuance of redemption certificates for the 11 shipping bills and the respondents 1 and 2 shall pass orders on

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such representation, uninfluenced by the impugned order, dated 06.08.2019, which is the subject matter of this writ petition.

8. With the aforesaid direction, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

vsi2

To

- 1.The Chairman,
Policy Relaxation Committee,
Udyog Bhawan,
H Wing, Gate No.2,
Maulana Azad Road,
New Delhi - 110 001.
- 2.The Joint Director General of Foreign Trade,
Shastri Bhawan Annexe,
26, Haddows Road,
Chennai - 600 006.
- 3.The Assistant Commissioner of Customs,
EDC Section,
Custom House,
No.60, Rajaji Salai,
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+1cc to Mr.S.Murugappan, Advocate SR.5400

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AJB (CO)
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