



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.19157 of 2021
(Through Video Conferencing)

M/s.Novel Impex
Shop No. 55, Amoluck Complex
II Floor, No.3 Periya Naicken Street,
Sowcarpet, Chennai- 600 003.
by its Proprietor Mr. Narendra Kumar Vora. ...Petitioner

Vs.

1. The Principal Commissioner of Customs
Chennai II Commissionerate No.60,
Rajaji Salai Customs House,
Chennai - 600 001.
2. The Commissioner of Customs (CFS)
Chennai IV Commissionerate
No. 60, Rajaji Salai, Customs House
Chennai - 600 001.
3. The Deputy Commissioner of Customs(Gr.3)
Chennai IV Commissionerate No.60 Rajaji Salai,
Customs House Chennai - 600 001.
4. M/s.Ennnore Cargo Container Terminal Pvt.Ltd.,
144, Kondakari Village, S.R.R.Palayam Post
Chennai- 600 120. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st and 2nd respondents herein to take appropriate action as against the 4th respondent, M/s. Ennore Cargo Container Terminal Pvt. Ltd., Container Freight Station, Chennai, in terms of the order in original No.81428 of 2021 dated 19.03.2021 passed by the 2nd respondent and also to further direct the refund of illegal collection of excess demurrage charges by the 4th respondent from the petitioner to the tune of Rs.12,35,431/- concerning the release of two Bills of Entry Nos. 3510385 & 3510483 both dated 06.10.2017, in spite of the existence of detention certificate dated 20.11.2018 issued by the 3rd Respondent herein which detention certificate was issued in



compliance of the order dated 21.09.2018 in CMA No.1913/2018 passed by the Division Bench.

For Petitioner : Mr.S.Baskaran

For R1: : Mr.H.Siddarth
Junior Standing Counsel

For R2 & R3 : Mr. Rajendaran Raghavan
Standing Counsel

For R4 : Mr.K.Bijay Sundar

ORDER

The petitioner has filed this writ petition for a Mandamus to direct the official respondents 1 to 3 to initiate appropriate action against the fourth respondent for not having refunded the demurrage charges which was directed to be refunded back to the petitioner by the first respondent vide order in original No.81428 of 2021 dated 19.03.2021.

2. Appearing on behalf of the official respondents, learned counsel for the respondent submits that the fourth respondent has challenged the order passed by the first respondent vide order in original No.81428 of 2021 dated 19.03.2021 before the Tribunal and therefore they are unable to proceed against the fourth respondent under the provisions of HCCAR of 2009.

3. Considering the above, I am inclined to dispose this writ petition with liberty to the petitioner to approach this Court as and when the Tribunal disposes of the appeal filed by the fourth respondent, against the aforesaid order dated 19.03.2021 of the first respondent. As far as the refund of the amount is concerned, the petitioner has to work out the remedy by enforcing the order before a Civil Court.

4. This Writ Petition stands disposed in terms of the above observations. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

nst/rgm



To

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Chennai IV Commissionerate
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Chennai- 600 120.

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RSV(CO)
RGA(12/01/2022)