

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.NO.23142 OF 2014

(THROUGH VIDEO CONFERENCING)

M/s.Vindhyawashini Trading Company,
Ganghara Kala, Lalganj,
Mirzapur, Uttar Pradesh - 231 211
By its Proprietor Mr.Vibhor Dubey. ... Petitioner

Vs.

The Joint/Addl. Commissioner of Customs (Gr.5B),
No.60, Rajaji Salai, Custom House,
Chennai - 600 001. ... Respondent

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondent herein to serve the petitioner concern the four orders-in-originals bearing Nos.15369 dated 03.06.2011, 15375 dated 18.03.2011, 15303 dated 16.03.2011 and 15296 dated 14.03.2011 passed by him against the petitioner concern to enable the petitioner to work out his legal remedy under the Customs Act.

For Petitioner : Mr.N.Viswanathan

For Respondent : Mr.V.Sundareswaran
Senior Standing Counsel

ORDER

This Writ Petition has been filed to issue a Writ of Mandamus directing the respondent herein to serve copies of the four Orders-in-Originals bearing reference Nos.15369 dated 03.06.2011, 15375 dated 18.03.2011, 15303 dated 16.03.2011 and 15296 dated 14.03.2011 passed by the respondent to enable the petitioner to work out his legal remedy against these orders under the Customs Act.

2. Since the dispute in this Writ Petition lies in a short compass, this Writ Petition is disposed after considering the counter affidavit filed by the respondent. In paragraph No.3 of the counter affidavit filed by the respondent, it has been stated as follows:-

3.Regarding para 4 of the affidavit I state that the matter was adjudicated and order in original was passed on 15289/14.03.2011, 15373/16.03.2011, 15302/15.03.2011, 15292/14.03.2011, 15369/16.03.2011, 15375/18.03.2011, 15303/16.03.2011 & 15296/14.03.2011 in respect of all the above mentioned 9 consignments and the said 9 orders were sent to the petitioner to the following address:-

"M/s. Vindhyaashini Trading Company,
Ganghara kala, Lalganj,
Mirzapur, Uttarpradesh - 231 211.

The petitioner ought to have received all the said 9 orders in due course. Contrary to the said fact, the petitioner has alleged that only five orders out of the total nine orders have been received by the petitioner. When all the nine orders were sent to the same given address one cannot understand how the petitioner could receive only five orders and not the rest of the four orders. The respondent got enough records in proof of dispatching all the nine orders to the above mentioned given address of the petitioner. Even in the present writ petition the same address is given as the petitioner's address.

3. The learned counsel for the respondent submits that the impugned orders in respect of which the present relief has been sought for are of the Year 2010-2011. There are however no records to substantiate that these orders were not received by the petitioner.

4. It is noticed that 9 orders came to be disposed by the respondent on various dates in respect of 9 bills of entry. The petitioner appears to have received only 5 orders which were challenged before the Commissioner of Customs (Appeals), Chennai. According to the petitioner, the 4 orders passed by the respondent which are the subject of this Writ Petition have not been served on it. Therefore, against these orders, the petitioner could not file any appeal before the Commissioner of Customs (Appeals), Chennai.

5. Heard the learned counsel for the petitioner and the learned senior standing counsel for the respondent.

6. Considering the submission of the learned senior standing counsel for the respondent that respondent is unable to confirm as to whether these Orders-in-Originals have been served or not on the petitioner, I am inclined to direct the respondent to furnish the certified copies of the orders to the petitioner, within a period of 30 days from the date of receipt of a copy of this order.

7. The petitioner shall thereafter file appeals before the Commissioner of Customs (Appeals), Chennai, within a period of two months from the date of receipt of certified copies of the Order-in-Original bearing reference Nos.15369 dated 03.06.2011, 15375 dated 18.03.2011, 15303 dated 16.03.2011 and 15296 dated 14.03.2011, under Section 128 of the Customs Act, 1962.

8. Accordingly, this Writ Petition stands disposed of with the above observations. No cost.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Joint/Addl. Commissioner of Customs (Gr.5B),
No.60, Rajaji Salai, Custom House,
Chennai - 600 001.
2. The Commissioner of Customs Appeal,
Chennai.

+1cc to Mr.N.Viswanathan, Advocate, S.R.No.2212
+1cc to Mr.V.Sundareswaran, Advocate, S.R.No.2549

W.P.No.23142 of 2014

CP(CO)
CS/16/02/2021