



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.18052 of 2020
and WMP Nos.22420 & 22421 of 2020

M/s. Abu Estate Private Limied,
rep by its Director, MR.N.A.ABU THAHIR,
No. 926, Poonamallee High Road,
Chennai- 84.

.... Petitioner

Vs.

1. The Deputy Director,
General of Foreign Trade,
Office of the Additional Director
General of Foreign Trade,
Shastri bhawan,
26, Haddows Road,
Chennai-6.
- 2.The Foreign Trade Development Officer,
Zonal Joint Director General of Foreign Trade,
4th floor Shastri Bhawan,
Annexure 26, Haddows Road, Chennai-6.
- 3.The Assistant Commissioner of Customs,
Chennai - IV office of the
Commissioner of Customs, 60, Rajaji Salai,
Custom House, Chennai- 1.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus to call for the Impugned proceedings of the first Respondent in F.NO 04/21/021/01008/AM 08 dated 13.10.2020 and quash the same as issued in violation of the Principles of natural justice and contrary to the provisions of the Foreign Trade Development and Regulation Act, 1992 and to further direct the first respondent to pass a fresh order after granting reasonable opportunity to the petitioner.

For Petitioner : Mr.P.Rajkumar

For Respondents: Mr.T.V.Krishnamachari,
Senior Panel Counsel for R1 & R2
Mr.S.Gurumoorthy,
Senior Panel Counsel for R3



O R D E R

Heard Mr.P.Rajkumar, learned counsel for the petitioner, Mr.T.V.Krishnamachari, learned Senior Panel Counsel for R1 and R2 and Mr.S.Gurumoorthy, learned Senior Panel Counsel for R3.

2. The main ground on which the impugned order dated 13.10.2020 passed by R1 is assailed is violation of principles of natural justice. The first respondent has issued a show cause notice dated 13.06.2019, in response to which the petitioner sought an adjournment of 30 days to enable it to collate and submit the required particulars. The petitioner also specifically sought an opportunity to appear along with full information to substantiate its case. Thereafter, the petitioner has been placed on the Denied Entity List (DEL) vide order dated 01.08.2019. On 13.10.2020 the impugned order-in-original has come to be passed.

3. A perusal of the impugned order would show that though the petitioner has specifically sought a personal hearing, no effective opportunity has been granted to the petitioner to put forth its submissions. The impugned order refers to notices that were issued fixing the date of personal hearing on 05.02.2020. However, neither the notices nor any acknowledgement for service of the same are placed on record. The impugned order proceeds on the basis that these notices have been issued to the residence of the Directors of the petitioner and were met with no response. In my considered view, when the respondent was well aware of the business address of the petitioner to which the impugned order as well as previous notices have been served, it was incumbent upon the respondent to have issued personal hearing notices also to the place of business.

4. In the light of the fact that the petitioner had admittedly not been granted an opportunity of personal hearing to defend its case effectively, the impugned order is liable to be set aside and is accordingly, set aside. The respondent is directed to issue notice afresh and pass orders de novo after hearing the petitioner and in accordance with law.

5. This Writ Petition is allowed. No costs. Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar



To

1. The Deputy Director,
General of Foreign Trade,
Office of the Additional Director
General of Foreign Trade,
Shastri bhawan, 26, Haddows Road,
Chennai-6.
2. The Foreign Trade Development Officer,
Zonal Joint Director General of Foreign Trade,
4th floor Shastri Bhawan, Annexure 26, Haddows Road,
Chennai-6.
3. The Assistant Commissioner of Customs,
Chennai - IV office of the Commissioner of Customs,
60, Rajaji Salai, Custom House, Chennai- 1.

+2ccs to Mr.T.V.Krishnamachari, Advocate SR.No.32379

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PCH (CO)

GMV (02/08/2021)