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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.No.27343 of 2017
and
W.M.P.No.29237 of 2017

M/s.Travel Masters India Pvt. Ltd.,
Rep., by its Director, Ms.Soundarya Ramji,
No.C-1, "Sona Flats",
No.5, Murrays Gate Road,
Alwarpet, Chennai-600 008.

..Petitioner

-vs-

1.Principal Commissioner of Customs,
Commissionerate of Customs-II,
O/o. Commissioner of Customs,
Custom House,
No.60, Rajaji Salai, Chennai-600 001.

2.Assistant Commissioner of Customs,
EPCG Section,
O/o.Commissioner of Customs,
Chennai-II Commissionerate,
Customs House,
No.60, Rajaji Salai, Chennai-600 001.

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records in and connected with the proceedings of the 2nd respondent in F.No.S45/483/2006-EPCG dated 15.09.2017, quash the same and forbear the respondents from taking any coercive action pursuant to the said proceedings.

For Petitioner	:	Mr.B.Satish Sundar
For Respondents	:	Mr.T.Pramod Kumar Chopda, Senior Standing Counsel

ORDER

The Writ on hand is filed challenging the order dated 15.09.2017 passed by the second respondent, Assistant Commissioner of Customs, EPCG Section, Chennai for recovery of



dues of Rs.30,30,000/- along with applicable interest towards non-fulfilment of export obligation under Export Promotional Capital Goods (EPCG) Authorization No.04300003274 dated 26.12.2005.

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2.The petitioner entity is a private limited company involved in the business of travel and tourism related services. The facts narrated are not in dispute between the parties.

3.The learned counsel appearing on behalf of the writ petitioner mainly contended that in order to get Export Obligation Discharge Certificate (EODC), the petitioner has already approached the Joint Director General of Foreign Trade, Chennai and the application in this regard is pending. The earlier writ petition filed by the writ petitioner in W.P.No.44532 of 2016 was withdrawn with a liberty to go before the said authority competent.

4.The learned counsel for the petitioner reiterated that the application submitted by the petitioner is pending before the authority and he would insist the authority to expedite the matter for getting the EODC and till such time, the bank guarantee furnished is to be kept alive and the respondents shall not realize the said bank guarantee.

5.The learned Senior Standing Counsel appearing on behalf of the respondents disputed the contention by stating that the petitioner has evaded payment of statutory dues one way or other by way of an interim order and already several years lapsed. The petitioner could not able to fulfil the export obligations and the petitioner has not submitted EODC so far. Thus, the respondents are entitled to realise the bank guarantee furnished by the petitioner and in the event of getting the certificate, the respondents would be in a position to return back the bank guarantee by following the procedures contemplated under the statues and rules.

6.This Court is of the considered opinion that the impugned order is for recovery of Government dues for the alleged non-fulfilment of EODC. Now the petitioner has approached the Joint Director General of Foreign Trade for issuance of EODC. The application is pending. The learned counsel for the petitioner also made a submission that he will approach the authority for early disposal of the application and therefore, some time is to be granted for submission of the said certificate.

7.In view of the facts and circumstances, thirty days time is granted for the purpose of submission of EODC by the writ petitioner. In the event of not submitting the said certificate to the respondents within a period of thirty days from the date



of receipt of a copy of this order, the respondents are at liberty to realise the bank guarantee already furnished by the writ petitioner.

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

s/d-
Assistant Registrar (CS-VII)

True Copy

Sub-Assistant Registrar

abr
To

1. The Principal Commissioner of Customs,
Commissionerate of Customs-II,
O/o. Commissioner of Customs,
Custom House,
No.60, Rajaji Salai, Chennai-600 001.

2. The Assistant Commissioner of Customs,
EPCG Section,
O/o. Commissioner of Customs,
Chennai-II Commissionerate,
Customs House,
No.60, Rajaji Salai, Chennai-600 001.

+1 CC to Mr. T. Pramod Kumar Chopda, Advocate sr 27758.
+1 CC to Mr. B. Satish Kumar, Advocate sr 27995.

W.P.No.27343 of 2017

PL (CO)
SP (22/07/2021)