



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :15.06.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.31104 of 2018

and

W.M.P.Nos.36287 & 36289 of 2018

M/s.S.S.Knit Exports,  
Rep. By its Partner,  
Mr.Haroon Rasheed,  
No.23/24, Kariya Gounder Street,  
Khaderpet, Tirupur - 641 601.

...Petitioner

Vs

1. The Union of India,  
Rep. By its Secretary,  
Ministry of Finance,  
New Delhi.
2. Chief Commissioner of Customs,  
Chennai Zone,  
5<sup>th</sup> Floor, Krishnapuram,  
Customs House,  
Rajaji Salai,  
Chennai - 600 001.
3. The Assistant Commissioner of Customs,  
Vidyalayam, Veerapandi Post,  
Tirupur - 641 605.
4. The Export Credit Guarantee Corporation  
of India Ltd., (ECGC),  
Rep. By its Deputy General Manager,  
Express Towers, 10<sup>th</sup> Floor,  
Ramnath Goenka Marg,  
Nariman Point, Mumbai - 400 021.
5. The Export Credit Guarantee Corporation of India Ltd.,  
Rep. By its Manager,  
Tirupur Branch Office,  
No.137/2, C.G.Complex, 2<sup>nd</sup> Floor,  
Kumaran Road,  
Tirupur - 641 601.



6. The Chairman,  
Insurance Regulatory & Development Authority,  
Door No.59-58/B, 3<sup>rd</sup> Floor,  
Parishrama Bhavan, Bazarghat,  
Hyderabad - 500 004.

... Respondents

PRAYER :

Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorari, to call for the records in policy No.0260002274, Export Credit Guarantee Corporation of India Ltd., Thirupur Branch, passed by the 4<sup>th</sup> respondent dated 01.11.2017 and quash the same and consequentially direct the 5<sup>th</sup> respondent to pay the duty draw back amount to the 3<sup>rd</sup> respondent.

(Prayer amended Vide order of this court Dated 16/07/2020 made in W.M.P.No.30524/2019 in W.P.No.31104/2018).

|                 |                                                                                                                                                                 |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| For Petitioner  | : Mr.Zafarullah Khan                                                                                                                                            |
| For Respondents | : Mr.T.V.Krishnamachari,<br>SPCCG for R1<br>Mr.M.Santhanaraman for R2 & R3<br>Mr.M.B.Raghavan for R6<br>Mr.Sai Srujantayi for<br>M/s.Giridhar & Sai for R4 & R5 |

#### O R D E R

The order dated 01.11.2017 passed by the fourth respondent is sought to be quashed in the present writ petition.

2. On Perusal of the affidavit filed in support of the writ petition and hearing the arguments as advanced by the learned counsel appearing on behalf of the writ petitioner, this Court is of the considered opinion that the issues raised in the writ on hand is based on certain contractual obligations between the parties. Thus, the issues are to be resolved by way of an adjudication with reference to documents and evidences to be made available. Such an exercise cannot be done in a writ proceedings, more specifically, under Article 226 of the Constitution of India.

3. The learned counsel appearing on behalf of the respondent also questioned the maintainability of writ petition by stating that the Credit Limit Application filed by the petitioner on 12.06.2008, was disposed of by the fourth



respondent, by an order dated 24.09.2020. However, the present writ petition is filed after lapse of 8 years. Thus, the writ petition itself is to be rejected on the ground of lapses. However, the learned counsel for the petitioner replied by stating that several subsequent communications are also enclosed and all those documents required an adjudication.

4. The disputed facts between the parties based on certain contractual obligation can never be adopted in writ proceedings by the High Court. Such issues cannot be decided nor a finding can be given based on the affidavits filed by the respective parties in the writ petition. Under these circumstances, the petitioner is at liberty to approach the appropriate forum for redressal of his grievances in the manner known to law.

5. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

Pns

To

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(GMI CO)  
CT(27/07/2021)