



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2021

CORAM

THE HON'BLE MR. JUSTICE M.SUNDAR

W.P (MD)No. 11049 of 2021

and W.M.P. (MD)No.8678 of 2021

WEB COPY

M/s. Srilak Shipping Services,
Represented by its Proprietor Mr. S. Kumar,
2H/38, V.M. Maris Bhavan,
Kathirvel Nagar Main Road,
Tuticorin - 628 008.

... Petitioner

Vs.

The Commissioner of Customs,
Custom House, New Harbour Estate,
Tuticorin - 628 004.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, calling for the entire records of the respondent herein leading to the issuance of the impugned order dated 25.06.2021 issued in C.No.VIII/13/45/2005-CHAL, and DIN-202106810H000000450E, passed by the respondent herein in ordering Prohibition of the petitioner's License and to quash the same as illegal, arbitrary, unfairness, unreasonableness and in clear violation of Principles of Natural Justice by issuance of writ of certiorari.

For Petitioner : Mr. A. K. Jayaraj
For Respondents : Mr. B. Vijay Karthikeyan
Senior Standing Counsel

O R D E R

This common order will govern the captioned main writ petition and the captioned wmp therein.

2. Captioned matter is listed under the cause list caption 'EXTENSION OF INERIM ORDER'. The reason is Hon'ble predecessor Judge had granted an order of interim stay on 07.07.2021, the same was extended from time to time, it was last extended by another Hon'ble predecessor Judge on 26.10.2021. The 07.07.2021 and 26.10.2021 interim order and order of extension of interim order read as follows:

'07.07.2021:

This writ petition has been filed by the petitioner challenging the prohibitory order passed against the petitioner.

2. The learned counsel for the petitioner would state that adjudication has to be completed within a period of ninety days.



9. I deem it appropriate to leave open all questions including questions raised in the captioned writ petition open to be canvassed by both sides i.e., writ petitioner and Revenue, if there are any further proceedings and the same can also be assailed in a manner known to law and all questions are left open to be canvassed by both sides.

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10. I also deem it appropriate to make it clear that said Regulation is a piece of subordinate legislation made by the Central Board of Indirect Taxes and Customs in exercise of subordinate legislation making power vested in the said Board by Sub Section 2 of 146 of Customs Act 1962 (52 of 1962). Therefore as the impugned order has elapsed by operation of a statutory provision (though the nomenclature is Regulation) this position is not disputed by the learned Revenue counsel and this by itself draws the curtains on the captioned writ petition.

11. To buttress his submission, learned counsel for revenue drew the attention of this court to paragraph 11 of the counter affidavit wherein it has been categorically mentioned that the impugned order under Regulation 15 of said Regulation is an interim measure. It is therefore not necessary to elaborate any further.

12. Recording the aforementioned stated position of the respondent, captioned writ petition is disposed of as closed making it clear that all questions including questions raised in the captioned writ petition are left open to be canvassed by both sides, if the need arises on a future date in this regard. Consequently captioned WMP is also disposed of as closed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mnr

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To

The Commissioner of Customs,
Custom House, New Harbour Estate,
Tuticorin - 628 004.

+1 CC to M/s.B.VIJAY KARTHIKEYAN, Advocate (SR-37636[F]
dated 07/12/2021)

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RJ (CO)

GC(20.12.2021) 4P 3C