



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.13690 of 2018

and

W.M.P.(MD)No.12427 of 2018

WEB COPY

Farooq Shabbir Noorani,
Director M/s.S.Mira Commodities Private Limited,
No.602, Arihant Sparsh, Plot No.13, 14,
Sector-26, Vashi,
Navi Mumbai-400 705. ... Petitioner

-Vs-

- 1.Customs, Excise and Service Tax Appellate Tribunal,
Shastri Bhavan, Annexe Building, 1st Floor,
26, Haddows Road, Chennai-600 006.
- 2.The Commissioner of Customs,
Custom House, New Harbour Road,
Tuticorin-628 004.
- 3.The Assistant Commissioner of Customs (ARC),
Office of the Commissioner of Customs,
Custom House, New Harbour Road,
Tuticorin-628 004. ... Respondents

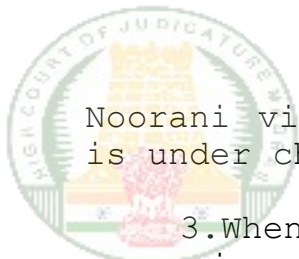
PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the entire records of the third respondent herein, the Assistant Commissioner of Customs (ARC), Custom House, Tuticorin, leading to the issuance of impugned Certificate No.06/2017-18, dated 04.04.2017 in file C.No.VIII/48/523/2013-Arrears and quash the same.

For Petitioner : Mr.A.K.Jayaraj
For Respondents : Mr.R.Aravindhan

ORDER

Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

2.The Commissioner of customs, Custom House, Tuticorin, passed an order 23.09.2015 against M/s.Mira Commodities Private Limited and its director namely Farroq Shabbir Noorani and four others who are the directors and officials of the said company. Recovery action was initiated against the Director Thiru.Farooq Shabbir



Noorani vide Certificate No.06/2017-18 dated 04.04.2017. The same is under challenge in the writ petition.

3.When the matter was taken up for hearing, the learned counsel appearing for the petitioner states that the petitioner herein has filed an independent appeal before the CESTAT questioning the order-in-original No.34/2014, dated 23.07.2014 and that it is still pending. He would also draw my attention to the fact that following the lodging of appeal before the CESTAT, Chennai, the third respondent had issued communication dated 09.07.2018 withdrawing the earlier certificate of action dated 29.01.2018 issued against the M/s.Mira Commodities Private Limited.

4.The argument of the petitioner's counsel is that when the certificate under Section 142(1)(c)(2) of the Customs Act, 1962, issued against the company has been withdrawn on the ground of pendency of appeal, a similar action taken against the Director of the Company cannot continue. The standing counsel wanted to get instructions and sought adjournment.

5.I was not inclined to grant adjournment. The learned Standing Counsel made a statement that he would advise the respondents to adopt the very same approach in the case of the petitioner as was adopted in the case of the company namely M/s.Mira Commodities Private Limited.

6.Recording the said submission, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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

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TP(CO)

TR(17.04.2021) 3P 4C