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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.4285 of 2022

&

W.M.P.Nos.4415 of 2022

M/s.Pavan Doors and Windows India Pvt. Ltd.
Rep.by its Director,
26/1, Kovalan Street,
Teachers Colony,
Erode - 608 011.

...Petitioner

Vs.

The Joint Director General of Foreign Trade,
1554, India Life Building (Annexe),
1st Floor, Trichy Road,
Coimbatore - 641 108.

...Respondent

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the impugned order in F.No.32/21/021/01170/AM11, dated 30.04.2021, passed by the Respondent.

For Petitioner : Mr.T.Ramesh

For Respondent : Mr.R.Srinivasan Muthy

O R D E R

Mr. K. Srinivasa Muthy, learned counsel accepts notice for the respondent and is armed with sufficient instructions to enable final disposal of the matter, even at this stage of admission. Hence, by consent expressed by both learned counsel, this writ petition is disposed finally, even though the matter is listed for admission today.

2. The challenge is to an order in original dated 30.04.2021. The delay in approaching this Court is explained away by learned counsel for the petitioner, pointing out to the difficulties that have transpired on account of the pandemic.



3. Though a token resistance is put forthwith by the learned counsel for the respondent in regard to the delay in laches, the objection is rejected bearing in mind the circumstances put forthwith by the petitioner.

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4. The main ground agitated by the petitioner is the violation of principles of natural justice, insofar as the impugned order does not make any specific reference to notices/show cause notices that have been served upon the petitioner's soliciting any response.

5. Learned counsel for the respondent would for his part refer to paragraph 2 of the order wherein the authority, while passing the impugned order, has tentatively referred to a notice issued to the directors though there are no details, either of the notice itself, such as the date or details of notices or service of the same upon the latter. Thus, this tentative response would, by no means, enable a conclusion that the principles of natural justice have been complied with in the present case.

6. If at all, the order ought to have been categoric and detailed, in regard to the show cause notices, when they had been served/upon the addressee and their non-compliance recorded. This would constitute proper procedure to establish due compliance with the principles of natural justice, at all such attempts had been made.

7. Reference is also made to the show cause notice dated 29.04.2019 upon which there is an endorsement in hand stating 'Recd 22/5/19'. Even assuming that the same has been served upon the noticee, this would not, by itself, indicate compliance with the principles of natural justice, as the show cause notice is dated 29.04.2019 and the impugned order, 30.04.2021. The intervening gap of two years in between is entirely unexplained and learned counsel appearing for the respondents also has no explanation to offer in this regard. In the event of the Officer wished to complete, finalize proceedings initiated in 2019 in 2021, it was incumbent upon him to have heard the petitioner and prior and proximate to the passing of the order and proceeded on the basis of a notice/service issued in 2019, the receipt of which is itself suspect as it has not been established.

8. In the aforesaid circumstances, the impugned order is set aside for violation of principles of natural justice. This writ petition stands allowed. Consequently connected writ



miscellaneous petition is closed. There shall be no order as to costs.

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Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

nst/ska

To

The Joint Director General of Foreign Trade,
1554, India Life Building (Annexe),
1st Floor, Trichy Road,
Coimbatore - 641 108.

+1cc to M/s.K.Srinivasa Murthy, Advocate, S.R.No.12638

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SR-II (CO)
SU(30/03/2022)