



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.NO.28464 OF 2015

&

M.P.NOS.1 & 2 OF 2015

M/s. NTC LOGISTICS (P) LTD.

Regd. Office : "NTC Towers"

No.97 (Old No. 47),

Linghi Chetty Street, Chennai 600 001.

Rep. by its Director,

Mr.Raaja Sundaram

... Petitioner

Vs.

The Commandant

The Indian Coast Guard,

Regional Ops and Plans Officer,

Coast Guard Region (West)

Regional Head Quarters, West,

Worli Sea Face PO. Worli, Colony, Mumbai.

... Respondent

Prayer :

Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the respondent Fax dated 26.02.2015 and quash the same.

For Petitioner : Mr.V.Venkatesan

For Respondent : Mr.A.Kumaraguru
Central Government Standing Counsel

O R D E R

The impugned order dated 26.02.2015, forwarding of capititation charges to the petitioner is under challenge in the present writ petition. The Indian Coast Guard Ship Agrim on patrol was directed to proceed with dispatch at about 0100 HRS on 17.02.2015 to intercept vessel. Subsequently, C.G. Dornier



was also launched from Daman to locate the vessel. The vessel was brought to Mumbai Anchorage under escort of ICGS Agrim at 0001 HRS on 18.02.2015. Thus, the Indian Coast Guard Authorities demanded capitation charges for tasking of Coast Guard assets for interception and escorting of MV Dynamic Striker works out to Rs.23.71,473/-. The details of the calculation are also enclosed along with the impugned order.

2. The writ petitioner is a company. It is an admitted fact that on emergency situation, let with no other option, the petitioner sought for the assistance of the Indian Coast Guard for securing the arrest of the vessel by letter dated 15.02.2015. All the particulars and whereabouts of the vessel were informed to the Indian Coast Authorities and the arrest order of the High Court was also made available to the respondent. Based on the inputs provided by the petitioner and the technical expertise of the respondent, respondent Indian Coast Guard was able to locate the vessel and informed about the order of arrest and directed the vessel not to proceed without resolving the commercial disputes. Thus, the interception was done at the request of the petitioner and pursuant to the order of arrest obtained by the writ petitioner before the High Court.

3. Such services cannot be construed as a national service done in the interest of nation. Such services to the petitioner is a private service extended by the Indian Coast Guard Authorities, at the request of the petitioner through their letter dated 15.02.2015 and as per the guidelines and the informations provided by the petitioner for arrest of the vessel. In respect of the private services provided by the Government Authorities, necessary charges will be imposed as per the procedures contemplated.

4. In the present case, it is not in dispute that the Indian Coast Guard Authorities proceeded pursuant to the request made by the petitioner in order to implement the arrest order passed by the High Court. Thus, it is the private service rendered by the Coast Guard for the benefit of the petitioner and the said vessel was intercepted and brought to Mumbai anchorage at the instance of the Indian Coast Guard Authorities. Thus, it is a clear case where the petitioner has utilized the services of the Indian Coast Guard Authorities and therefore, he is liable to pay the capitation charges.

5. Under these circumstances, for the private services rendered for the benefit of the petitioner, the tax payers are not made to suffer. When the Government machinery is utilized



for private services, on certain emergency circumstances at the request of the a person, then all such expenditures must be made out by the person who made such a request and certainly not from the public money. The public money namely, the taxpayer money, should be utilized only for the public services to be provided and not for the private services extended by the Government on certail exceptional circumstances.

6. In the present case, the petitioner submitted a letter in order to protect its own interest and based on the order of arrest passed by the High Court, the petitioner had utilized the services of the Indian Coast Guard Authorities and when the vessel belongs to the Government of India, the petitioner is liable to pay the capitation charges.

7. Further, the order passed in Application No.1648 of 2015 in C.S.No.107 of 2015 dated 18.03.2015 reveals that the capitation charges to be paid in favour of the Indian Coast Guard Authority was accepted by the plaintiff and the defendant in the civil suit and the relevant portion of the order reads as under:

2. This Court, by order 13.02.2015, passed an interim order of arrest of the vessel M.V.SEVASTOPOL now lying in the Bombay Port. Subsequently, the interim order was also extended. Today, when the matter is taken up for consideration, a memo has been filed by the plaintiff and the defendant stating that the defendant had remitted a sum of 90000 US\$ to the bank account of the plaintiff which is full and final settlement of all the claims of the plaintiff as against the defendant including all expenses incurred or those possibly incurred in future by the plaintiff with regard to the services by Indian Coast Guard. The plaintiff has got no objection for lifting the order of arrest and for free sail of the vessel and issuing a warrant of release.

8. In view of the above orders passed by the High Court, pursuant to the memo filed by the plaintiff and defendant in the said civil suit, more specifically, when the suit itself was instituted by the petitioner, now the petitioner cannot turn around and refuse to pay the capitation charges by filing the present writ petition. Therefore, the petitioner has not



established any acceptable cause for entertaining the writ petition and thus the writ petition stands dismissed. The respondent is bound to recover the charges by following the procedures without causing any further delay as the writ petition is pending for about six years. Connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

shr/ska

To

The Commandant
The Indian Coast Guard,
Regional Ops and Plans Officer,
Coast Guard Region (West)
Regional Head Quarters, West,
Worli Sea Face PO. Worli, Colony, Mumbai.

+lcc to Mr.V.Venkatesan, Advocate, S.R.No.4799
+lcc to Mr.A.Kumaraguru, Advocate, S.R.No.5350

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SSI (CO)
PM/10/02/2022