



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.04.2022
CORAM

THE HONOURABLE MR. JUSTICE C.SARAVANAN

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Writ Petition (MD) No.5965 of 2013

M/s.St. Judes Freight Private Limited,
16-H/3, Jeyalani Colony,
Near St. Judes Shrine,
Tuticorin Port,
Thoothukudi District,
Rep. by its Director,
Mrs.H.Elizabeth Rani @ Beula

.. Petitioner

Versus

1.The Commissioner of Customs,
Office of the Commissioner of Customs,
Custom House,
New Harbour Estate,
Tuticorin,
Thoothukudi District.

2.The Additional Commissioner of Customs,
Tuticorin Customs House,
Tuticorin,
Thoothukudi District.

.. Respondents

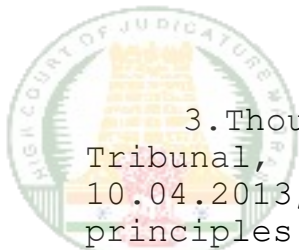
Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the order passed by the first respondent, dated 13.08.2012, and Corrigendum dated 22.08.2012 in C.No.VIII/10/27/2003 CHAL and quash the same.

For Petitioner	:	Mr.N.Dilipkumar
For Respondents	:	Mrs.S.Ragaventhre Junior Standing Counsel

ORDER

The petitioner has challenged the impugned order dated 13.08.2012 and Corrigendum dated 22.08.2012, bearing C.No.VIII/10/27/2003-CHAL and to quash the same.

2.The impugned order is challenged primarily on the ground that simultaneous proceedings were initiated both under Regulation 20(2) and Regulation 22 of the Customs House Agents Licensing Regulations, 2004.



3. Though the petitioner has an alternate remedy before the Tribunal, the petitioner has instead filed this Writ Petition on 10.04.2013, on the ground that there is a gross violation of the principles of natural justice, inasmuch as the request of the petitioner to cross-examine one Regina and Raj, Senior Intelligence Officer from D.R.I. was rejected. However, it is noticed that during the course of personal hearing before the Enquiry Officer, the Managing Director of the petitioner Company has submitted that he was no longer interested in cross-examining the above said Officer, as evident from a reading of Paragraph 22 of the impugned order, which reads as under:-

'22. In the reply to the show cause notice issued, the CHA wanted to cross-examine the DRI officer and other officers of Audit, Assessment, etc. But, during the personal hearing before the Inquiry Officer, the Managing Director of the CHA company submitted that he was not interested in cross-examining the said officers.'

4. The Managing Director of the petitioner has also accepted the mistake in his letter dated 07.07.2011, and requested the respondents to revoke the suspension order and to give life to CHA Licence.

5. The facts on record indicate that the petitioner had indulged in large scale fabrication of documents including the bill of entries and had appropriated huge amount and thus, violated the conditions of the licence and the provisions of the Customs House Agents Licensing Regulations, 2004. Under these circumstances, the petitioner was issued with a show cause notice, which culminated in the impugned order dated 13.08.2012. There are inculpatory statements of one of the importers that the petitioner Company had acted as Customs House Agent for clearance of the imported consignments and that the petitioner Company had indulged in fabrication of documents to evade the customs duty.

6. The facts on record also indicate that there was evasion of duty to the extent of Rs.5.52 lakhs as per the strength of fake documents generated by the petitioner. Therefore, there is no merit in the Writ Petition particularly, in the light of the fact that there is an admission of guilt by the Managing Director of the petitioner on 07.07.2011. Under these circumstances, I am inclined to dismiss this Writ Petition. At the same time, however, I am inclined to grant liberty to the petitioner to file a statutory appeal before the CESTAT within a period of 30 days from the date of receipt of a copy of this order. If such an appeal is filed within the time limit prescribed, the CESTAT shall number the appeal and list the case for final hearing and dispose the same on its merits, as expeditiously as possible.



7.This Writ Petition stands dismissed with the above observation. No costs.

Sd/-

Assistant Registrar (CRL)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Commissioner of Customs,
Office of the Commissioner of Customs,
Custom House,
New Harbour Estate,
Tuticorin,
Thoothukudi District.

2.The Additional Commissioner of Customs,
Tuticorin Customs House,
Tuticorin,
Thoothukudi District.

+1 CC to M/s.N. DILIPKUMAR, Advocate (SR-17362[F] dated
07/04/2022)

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05.04.2022

SG (CO)

KB(20.04.2022) 3P 4C