



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD).No.20033 of 2014

and

M.P(MD).Nos.1 and 2 of 2014

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M/s.Vilsons Container Freight Station,
Rep. by its Director,
J.Celestine Villavarayar,
Plot No.3/2B, Harbour Express Highway Road,
Near Thermal Nagar Camp-1,
Tuticorin-628 006.

... Petitioner

Vs.

1.The Government of India,
Rep. by its Secretary to Government,
Ministry of Finance,
Department of Revenue,
Central Board of Excise and Customs,
B-Wing, 5th Floor, HUDCO Visala Building,
Bhikaji Cama Place,
R.K.Puram, New Delhi-2.

2.The Deputy Director,
Directorate General of Human Resources Development,
No.409/8, Deepshikha Building,
Rajendra Place, New Delhi-8.

3.The Joint Director,
Directorate General of Human Resources Development,
Expenditure and Management Wing,
Customs and Central Excise,
C-4, Ircon Building,
District Centre, Saket,
New Delhi-110 017.

4.The Commissioner of Customs,
Custom House,
New Harbour Estate,
Tuticorin.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the second Respondent in F. No.8/B/54/HRD (HRM)/CRB/2012 dated 29.11.2013 and the impugned proceedings of the third Respondent in F.No.8/B/63/HRD (HRM) / 2011 Pt.I dated 04.04.2014 and quash the same and consequently direct the respondents herein to exempt the petitioner from payment of cost recovery from 24.10.2007



and consequently direct the respondents to repay a sum of Rs.1,50,23,323/- with interest.

For Petitioner : Mr.C.Jeganathan
For M/s.Veera Associates
For R1 : Mr.S.Muthukumar
For R2 & R3 : Mr.R.Aravindan
Senior Standing Counsel

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ORDER

Heard the learned counsel for the petitioner, the learned counsel for the first respondent and the learned senior standing counsel for the respondents 2 and 3.

2. The petitioner has challenged the impugned order, dated 29.11.2013 bearing reference F.No.8/B/54/HRD (HRM)/CRB/2012 of the second respondent and the impugned proceedings of the third respondent, dated 04.04.2014 bearing reference F.No.8/B/63/HRD (HRM) / 2011 Pt.I and quash the same and consequently direct the respondents to exempt the petitioner from payment of cost recovery from 24.10.2007 and consequently direct the respondents to repay a sum of Rs.1,50,23,323/- with interest.

3. The learned counsel for the petitioner submits that the issue is now squarely covered by an order of this Court in W.P.Nos.7937, 7938 and 8248 of 2013 (**M/s.Sun Global Logistics Private Limited Vs The Union of India**), dated 02.06.2021.

4. The learned counsel for the petitioner has referred to the following passages from the aforesaid order:

"74.These, circulars which have been issued at best can be said to have been issued in aid of Regulation 7 of the Handling of Cargo in Customs Areas Regulations,2009 as per which powers have been vested with the Commissioner of customs to relax a "Customs Cargo Service Provider" from operation of Regulation 5. There is no other provisions under which these circulars/clarification granting exemption can be legitimized.

75.There is no connect between the provisions of the above Regulation as it stands today and the practice that is being followed by the Department for levying and exempting a Customs Cargo Service Providers from payment of Cost Recovery Charges. Therefore, while disposing these writ petitions in favour of the petitioner by directing the respondents to regularize the payments already made by the petitioner and by directing the respondents to grant waiver to the petitioner for the period after the petitioner has achieved the required benchmark/criteria as per the CBEC Circular dated 12.09.20-5 bearing Reference F.No.434/17/2004, I direct the Central

<https://hcservices.ecourts.gov.in/hcservices/> Board of Excise And Customs to issue :-



i. issue appropriate notifications for the benefit of Trade and Public within a period of 6 months specifying the rates /charges payable by a "Customs Cargo Service Providers" on Cost Recovery Charges(CRC)basis operating under the Provisions of the Handling of Cargo in Customs Areas Regulations, 2009 in consonance with the provisions of the Customs Act, 1962 and the Constitution of India;

ii. Suitably amend the Provisions of the Handling of Cargo in Customs Areas Regulations, 2009 incorporating provisions for grant of waiver/exemption from payment of amounts on Cost Recovery Charges (CRC)basis payable under the aforesaid provisions.

76. I also direct the jurisdictional Commissioner/Chief Commissioner to regularize the case of the petitioner by granting waiver/exemption to the petitioner by an order with effect from the date on which the petitioner achieved the benchmark as per the CBEC Circular dated 12.09.2005 bearing Reference F.No.434/17/2004.

77. These writ petition stands disposed with the above observation. No costs. Consequently, connected miscellaneous petitions are closed."

5. The learned counsel for the respondents submits that he is unable to confirm whether the aforesaid order has been appeal against or not in the light of the subsequent development.

6. I have considered the arguments advanced by the learned counsel for the petitioner, the learned counsel for the first respondent and the learned senior standing counsel for the respondents 2 and 3.

7. In view of the above order, this writ petition stands disposed in terms of the of this Court in W.P.Nos.7937, 7938 and 8248 of 2013 (M/s.Sun Global Logistics Private Limited Vs The Union of India), dated 02.06.2021. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



To

- 1.The Secretary,
The Government of India,
Ministry of Finance,
Department of Revenue,
Central Board of Excise and Customs,
B-Wing, 5th Floor, HUDCO Visala Building,
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Directorate General of Human Resources Development,
Expenditure and Management Wing,
Customs and Central Excise,
C-4, Ircon Building, District Centre, Saket,
New Delhi-110 017.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-23146[F] dated
02/05/2022)

W.P (MD) .No.20033 of 2014
29.04.2022

RK(07/06/2022) 4P 5C