



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 07.06.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.17911 of 2015
and
M.P(MD).No.1 of 2015

T.Manthirampillai

... Petitioner

Vs.

1.The Member (Customs)

Central Board of Excise and Customs,
Room No.254, Department of Revenue,
North Block, New Delhi.

2.The Additional Director,

Directorate of Revenue Intelligence,
Zonal Unit 25,
Gopalakrishna Road,
T Nagar, Chennai.

3.The Joint Commissioner of Customs,

No.1, Williams Road,
Trichy District.

4.The Joint/Additional Commissioner of Customs,

Inland Container Depot,
CONCOR Whitefield,
Bangalore.

5.The Joint/Additional Commissioner of Customs

Inland Container Depot,
CONCOR Whitefield,
Bangalore.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 and 2 to fix a common adjudicating authority to conduct adjudication on the show cause notice dated 13.05.2014 in F.No.VIII/48/07 & 08/2013-DRI-TTN issued by the second respondent.

For Petitioner

: Mr.Chamundi Bose

For M/s.Kara Associates

For Respondent

: Mr.R.Aravindhhan

Senior Standing Counsel

**ORDER**

The petitioner is a commission agent to facilitate in purchase and export of goods goods. The allegations against the petitioner is that the petitioner got involved in exports of red sanders, which is prohibited in India.

2. The petitioner has received a show cause notice, dated 13.05.2014 in F.No.VIII/48/07 & 08/2013-DRI-TTN from the second respondent to answer the fourth respondent as well as the fifth respondent, who are in Bangalore. The petitioner has replied to the same on 10.08.2014 and he had also attended a personal hearing on 28.11.2014. In the meanwhile, the petitioner has received a letter from the fifth respondent on 14.01.2015 asking the petitioner to attend the personal hearing on 02.02.2015, 04.02.2015 and 06.02.2015. The petitioner has replied on 29.01.2015 to transfer the case to Trichy, since the fourth respondent, who is in Trichy had already heard the petitioner. The allegations against the petitioner are almost similar and to avoid the contradictory findings, he sought for hearing of both the cases by a common adjudicating authority.

3. The learned counsel for the petitioner submits that the petitioner in support of his contention had produced the show cause notice, the petitioner had replied to the same and was sent to both the respondents 4 and 5.

4. The learned Senior Standing Counsel for the respondents submitted that the writ petition ought not to be entertained, even on the date of filing of the writ petition on 22.09.2015. The fifth respondent had passed an order in Original No.328 of 2015 on 31.03.2015. Hence, the petitioner's prayer is infructuous and it cannot be entertained. Further on the factual aspect of the case, they filed a detailed counter, which reads as under:

"2.It is respectfully submitted that the petitioner Manthiram Pilla who was found to be involved in the attempted smuggling of red sanders logs an item prohibited for export. The petitioner was involved in the attempted smuggling of red sanders through the exports made through ICD, Bangalore and through ICD, Karur. The second respondent who investigated the above case and detected the above attempted smuggling issued a common show cause notice covering the attempted smuggling through ICD, Bangalore and ICD, Karur calling upon the petitioner to answer the respondents 4 and 5 separately. The adjudication process before the fifth respondent in Bangalore has already been completed and the fifth respondent has passed necessary orders. The adjudication process before the fourth respondent at Trichy is yet to be completed. At this stage there is neither any requirement of common adjudication authority nor the respondents have to attend any proceeding



at Bangalore. At this stage there is no need for the first respondent to appoint a common adjudication authority as pleaded by the appellant.

6.Regarding the averment of the petitioner in para 11(C) that the order passed by the respondent is ultra vires, illegal and without jurisdiction, it is respectfully submitted that the order passed by the fifth respondent is legal and proper and he has only adjudicated the violations happened in the exports made through his jurisdiction i.e. ICD, Bangalore. The fourth respondent is well within his jurisdiction and in the process of adjudicating the violatins happened in exports made through his jurisdiction i.e ICD, Karur. Hence, the averment of the appelllant in this regard is not correct."

5. He further submitted that as per Section 122 of the Customs Act, the respective authority to issue show cause notice and respective adjudicating authority to conduct enquiry and pass orders. In this case, already orders have been passed by the fifth respondent. Hence, the respondents prayed for the dismissal of the writ petition.

6. Considering the above submission, it is seen that the petitioner to avoid contradictory findings and complexity has filed this petition, it is seen that already the fifth respondent has passed an order against the petitioner in order in Original No.328 of 2015 on 31.03.2015, hence the writ petition cannot be entertained. Hence, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

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Sub Assistant Registrar(CS)

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To

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+1 CC to M/s.CHAMUNDI BOSE, Advocate (SR-24403[F] dated
07/06/2022)

W.P (MD) .No.17911 of 2015
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MGJ(14.06.2022) 4P 7C