



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.11.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.25418 of 2022

and

W.M.P(MD)No.19526 of 2022

M/s.Sun Ark Aluminium Industries Private Limited,
Represented by its Managing Director,
Shri.P.Sivakumar,
Old No.4/4D, New No.7/83,
Sir Desika Road, Mookambika Complex,
Mylapore, Chennai-600 004.

... Petitioner

Vs.

1.The Assistant Commissioner of Customs
(Advance Authorization),
Custom House, New Harbour Estate,
Tuticorin-628 004.

2.The Assistant Commissioner of Customs(ARC),
Custom House, New Harbour Estate,
Tuticorin-628 004.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the impugned recovery notice, dated 08.09.2020 passed by the 2nd Respondent and quash the same.



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For Petitioner : Mr.Hari Radhakrishnan
For Respondents : Mr.R.Nandakumar
Senior Standing Counsel
Assisted by Mrs.S.Ragaventhre
Junior Standing Counsel

ORDER

This writ petition has been filed challenging the impugned order, dated 08.09.2020 on the premise that notice has not been served on the Petitioner and secondly, the very basis of the order was that the Petitioner had failed to discharge export obligation within the prescribed period.

2. It was submitted that the Petitioner has received redemption letter from the Ministry of Commerce and Industry, wherein, the discharge of export obligation on the part of the Petitioner is acknowledged / certified. It was submitted that thus the very basis of the impugned order would no longer survive. It was further submitted that all the communications were sent to M/s.Sun Ark Aluminium Industries Private Limited, Old No,4/4D, New No. 7/83, Sir Desika Road, Alwarpet, Chennai-600018. The Petitioner had shifted to M/s.Sun Ark Aluminium Industries Private Limited, Old No,4/4D, New No.7/83, Sir Desika Road, Mylapore, Chennai-600004 and the same was intimated to the office of the Director General of Foreign Trade, Madurai, Certificate of Importer-Exporter Code and Commissioner of Customs,



Tuticorin on 20.12.2017 and to the Post Master on 30.06.2017. However, despite the fact that change in the addressed have been intimated, all the communications were made on the earlier address. Thus, the Petitioner was unable to respond. It is submitted that the Petitioner was aware of the proceedings only after the recovery proceedings were initiated to which there was no response.

3. In the circumstances, it was submitted by the learned Standing Counsel for the Respondents that if the Petitioner submits the Export Obligation Discharge Certificate, the same would be considered and passed orders in accordance with law within a period of six weeks from the date of receipt of copy of this order.

4. In view of the same, the Petitioner is permitted to furnish/submit Export Obligation Discharge Certificate within a period of three weeks from the date of receipt of copy of this order. The Respondents shall consider the same and pass orders on merits and in accordance with law within a period of six weeks thereafter.



5. The writ petition stands disposed of on the above terms. No costs.

Consequently, connected miscellaneous petition is closed.

25.11.2022

Index : Yes / No
Internet : Yes/ No
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To

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MOHAMMED SHAFFIQ, J.

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