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W.P.No.2785 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.02.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.2785 of 2023

M/s. Kawarlal & Co.,
No. 27, Raghunayakulu Street,
Chennai – 600 003
by its proprietor K. Ramlal Jain

... Petitioner

versus

1. The Additional Director General of
Foreign Trade
Ministry of Commerce & Industry, 26,
Haddows Road,
Shastri Bhawan Annexe Building,
Chennai – 600 006.
2. The Joint Director General of Foreign Trade,
O/o. The Additional Director General
of Foreign Trade,
Ministry of Commerce & Industry, 26,
Haddows Road,
Shastri Bhawan Annexe Building,
Chennai – 600 006.
3. The Joint Director General of Foreign Trade,
O/o. The Additional Director General of
Foreign Trade,
6th Floor, Kendriya Sadan, C&E Wing,
17th Main Road,
Koramangala, 2nd Block,
Bengaluru – 560 034.



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The Director General of Foreign Trade
Government of India, Ministry of Commerce
& Industry,

Udyog Bhawan, H-Wing, Gate. No-2,

Maulana Azad Road, New Delhi – 110001. ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus directing the respondents herein, to allow the sale/transfer of the various licenses purchased by the petitioner concern for a valid consideration, which licenses could not be utilized by the petitioner concern, due to suspension of their Importer Exporter Code (IEC No. 0402001630) and accordingly directing the respondents herein to permit the petitioner to sell/transfer their various licenses, through the online portal website of DGFT by lifting the technicalities involved in such sale/transfer of the license, and also by considering their representation dated 13.01.2023

For the Petitioner : Mr. S. Baskaran

For the Respondents : Mr.Rajesh Vivekanandan
Deputy Solicitor General
for R1 to R3

ORDER

The writ petition has been filed in the nature of Mandamus seeking a direction to the respondents to permit sale/transfer of the licenses purchased by the petitioner herein for valid consideration.

2. The said licenses could not be utilized by the petitioner due to suspension of the import export code in IEC No. 0402001630 of the petitioner.



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3. The petitioner seeks therefore to transfer or sell the licenses through on-line portal website of the Director General of Foreign Trade. The petitioner also seeks that technicality involved should not come in the way of such import or export. The technicalities, can be raised by the customs authority.

4. Learned counsel for the petitioner states that however he will exercise the option to either transfer or sell those licenses to private parties. In this connection, he has given a representation on 13.01.2023.

5. Learned Standing Counsel had taken notice on behalf of the respondents. The regulations relating Electronic Duty Credit Ledger Regulations of the year 2021 are quite clear. They are straight forward. They are simple. The regulations provide that any transfer credit in E-script can be allowed within the customs automated system from the ledger of the petitioner herein to the ledger of the prospective purchaser.



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6. The petitioner however relied on Regulation No.8 and states that he would transfer or sell the scripts to private individuals. That is an issue which will have to be considered by the respondents and while they dispose of the representation, let them get an undertaking from the petitioner as to how he proposes to sell or transfer the licenses. That can be done only when the respondents take some further measure in the representation given. Let the respondents examine further the representation given by the petitioner herein, invite the petitioner, get necessary undertaking, examine the issues and thereafter pass orders. Orders shall be passed on or before 03.03.2023.

7. The writ petition stands disposed of. No costs.

03.02.2023

Index: Yes/no
mrn

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C.V.KARTHIKEYAN, J.
(mrn)

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