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Writ Petition No.17448 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.17448 of 2023

M/s.Aakar Enterprises
represented by its Partner
Mr.Kamal H Shah
No.4, Sattana Naicker Street,
Timber Market, Choolai,
Chennai - 600 112.

...Petitioner

Vs

- 1.The Regional Transport Officer,
O/o.Regional Transport Office,
Chennai (East),
Pulianthope, Chennai - 600 012.
- 2.The Deputy Commissioner of Customs,
Office of Commissioner of customs,
Chennai - III,
Customs House, 60, Rajaji Salai,
Chennai - 600 001.
- 3.The Director General,
Office of Directorate General of Foreign Trade,
Vanijya Bhawan, New Delhi.
- 4.The Director General,
Office of the Director General of Foreign Trade,
No.368W + 6RJ Shastri Bhavan,
Haddows Road Avenue,
Nungambakkam, Chennai - 600 006.

... Respondents



Writ Petition No.17448 of 2023

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the first respondent to register the auctioned pre-used Imported Motor Vehicle LEXUS Model X300 purchased via public auction initiated by the second respondent held on 07.01.2022.

For Petitioner : Mr.A.Arokia Satheesh

For Respondents : Mr.A.M.Ayyathurai
Government Advocate

ORDER

This writ petition has been filed for issuance of a writ of mandamus directing the first respondent to register the subject vehicle, which was purchased by the petitioner in the auction conducted by the second respondent on 07.01.2022.

2. Heard Mr.A.Arokia Satheesh, learned counsel for petitioner and Mr.A.M.Ayyathurai, learned Government Advocate appearing for respondents.



3. The case of the petitioner is that the subject vehicle was a pre-used one, which was imported into India during the year 2016. The importer did not clear the vehicle and it was lying in the customs warehouse. Since no claim was made, the second respondent issued a e-auction notice dated 07.01.2022 for bringing the vehicle for auction and the petitioner participated in the said auction. The petitioner was declared as the successful bidder and the petitioner also remitted the entire money and the second respondent executed a delivery note on 24.01.2022 in favour of the petitioner and the possession of the vehicle was also handed over to the petitioner.

4. The petitioner approached the first respondent by making an application on 04.04.2022 along with all relevant documents for registration of the vehicle in the name of the petitioner. The first respondent was raising some doubts for registration of the vehicle and hence, through letter dated 14.06.2022, the application that was submitted by the petitioner was returned.



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5. The petitioner took up the matter before the second respondent and the second respondent addressed a letter dated 15.07.2022 to the first respondent and in the said letter, it is stated as follows:

"It is hereby informed that this office had auctioned a used motor car of make Lexus Model X300 vide auction no.MSTC/SRO/COMMISSIONER OF CUSTOMS (EXPORTS), CHENNAI/9/CHENNAI/21-22/27519 dated 07.01.2022 through M/s.MSTC. The Subject car had been imported by Mrs.Geetha Solaraj vide Bill of Entry No.6060631 dated 20.07.2016 and the importer had abandoned the above vehicle and the disposal of the same was taken up by this section after following due diligence and as per relevant rules prescribed in the Customs Act, 1962, and CBIC Disposal Manual, 2019. Further kind attention is invited to 3(I)(a) of Chapter 87, Schedule 1 of ITC (HS), 2012 wherein it states that

(3) (I) The conditions at Sl.Nos.1 & 2 above shall not be applicable on import of passenger cars/jeeps/multi utility vehicles etc. on payment of full Customs duty by the following categories of importers:

(a) Individuals coming to India for permanent settlement after two years continuous stay abroad provided the car has been in the possession of the individual for a period of minimum one year abroad.

In this regard, the auctioned vehicle used motor car make Lexus Model X300 falls under 3(I) (a) of Chapter 87, Schedule 1 of ITC (HS), 2012. Further as per CMVR, 1989 Section 57(2), the subject vehicle may be registered to the name and address of the bidder (buyer)."

6. The first respondent in spite of the receipt of this letter from the second respondent once again sought for a clarification with the fourth



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vehicle can be registered in the name of the petitioner. Even thereafter, the first respondent sought for a clarification from the Director General of Foreign Trade. The Joint Director General of Foreign Trade had clarified through communication dated 15.02.2023 that the DGFT has no role in the matter and the customs has already clarified the same. In view of this communication, there is no reason as to why the first respondent is delaying the registration of the vehicle in the name of the petitioner.

9. In view of the above, if the petitioner has satisfied all the other requirements, there shall be a direction to the first respondent to receive the application from the petitioner and to act upon the same and register the vehicle in the name of the petitioner. This exercise shall be completed by the first respondent within a period of four (4) weeks from the date of receipt of a copy of this order.

This writ petition is disposed of in the above terms. No costs.

13.06.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
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N.ANAND VENKATESH, J

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