



W.P.No.19536 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.19536 of 2023

M/s.Mars Shipping Services,
Old No.259, New No.144, 3rd Floor,
Thambu Chetty Street,
Chennai – 600 001.
By its Partner B.Ravi.

... Petitioner

Vs.

- 1.The Principal Commissioner of Customs (CB),
Chennai VIII Commissionerate,
Custom House, 60, Rajaji Salai,
Chennai – 600 001.
- 2.The Additional Commissioner of Customs (CB),
Chennai VIII Commissionerate,
Custom House, 60, Rajaji Salai,
Chennai – 600 001.
- 3.The Deputy Commissioner of Customs,
Chennai VIII Commissionerate,
Custom House, 60, Rajaji Salai,
Chennai – 600 001.

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus, directing the respondents herein to implement the Order in Original No.85158 of 2021 dated 02.07.2021, passed by the first respondent, in so far as, in terms of the above order, the petitioner was allowed to operate its Customs Broker License bearing No.R-591/CHA, which order has become final, as the department had accepted the same and had not filed any appeal as against the said order.

For Petitioner : Mr.S.Baskaran

For Respondents : Mr.J.Vasu
Senior Standing Counsel

ORDER

Mr.J.Vasu, learned Senior Standing Counsel takes notice on behalf of the respondents.

2.The petitioner's Customs Broker License was suspended vide order dated 28.08.2014 in Order-in-Original No.29163 of 2014. Thereafter, the petitioner was issued with a Show Cause Notice dated 08.09.2014 under Regulations 20 of Customs Broker Licensing Regulations, 2013. Both these were subject matter of the writ petitions before this Court in W.P.Nos.27726 and 27727 of 2014. By its order dated 30.04.2015, this Court had allowed



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the writ petition in so far as quashing of the Show Cause Notice dated 08.09.2014. The respondent was directed to issue a fresh Show Cause Notice by clearly indicating the alleged failures of obligations cast upon the petitioner as well as mis-conduct by ensuring that it does not indicate any premeditation or prejudgment by the respondent. Thereafter, the petitioner was issued with a fresh Show Cause Notice dated 21.07.2015 under Regulation 20(1) of Customs Broker Licensing Regulations, 2013. The Show Cause Notice was also subject to challenge before this Court in W.P.Nos.26231 and 26232 of 2015. This Court vide its order dated 19.04.2021, disposed both the writ petitions with the following observations:

“7.This being the factum established, this Court is inclined to pass the following orders:

(1)The petitioner is directed to submit his explanations/defense documents or evidences, if any, in response to the show cause notice dated 21.07.2015 within a period of two weeks from the date of receipt of a copy of this order and on receipt of such explanation/defense from the writ petitioner, the respondent is bound to provide an opportunity and if any request is made for personal hearing, provide the same and thereafter, decide the issue on merits and in accordance with law within a period of four weeks thereafter.

(2)In respect of the rejection order dated 21.07.2015, the petitioner is at liberty to file an appeal as contemplated under the regulations and in the event of filing an appeal, the same shall be decided on merits and in accordance with law by the Appellate Authority.



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8. With these directions, both the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.”

3. Pursuant to the above order of this Court, the first respondent has passed the impugned Order-in-Original No.85158 of 2021 dated 02.07.2021.

4. The petitioner has filed the appeal insofar as imposition of penalty before the Customs, Excise and Service Tax Appellate Tribunal on 29.07.2021, which has been numbered as Appeal No.C/40504/2021-CU[SM]. Meanwhile, the petitioner has also complied with the order passed by the respondent vide Order-in-Original No.85158 of 2021, by depositing the penalty. The respondents are however unable to confirm whether any cross appeal has been filed before the Appellate Tribunal against the order dated 02.07.2021 in Order-in-Original No.85158 of 2021 by the respondent. Typed set of papers filed by the petitioner confirms that indeed the petitioner has filed appeal against Order-in-Original No.85158 of 2021 dated 02.07.2021 before the Appellate Tribunal which has been numbered as Appeal No.C/40504/2021-CU[SM].



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5. Considering the fact that the petitioner has also deposited the penalty that was imposed on the petitioner vide order dated 02.07.2021 in Order-in-Original No.85185 of 2021 by the first respondent, the Court is inclined to allow this writ petition by directing the respondents herein to implement the aforesaid order passed by the first respondent without prejudice to the rights of the respondent.

6. This writ petition stands allowed. No costs.

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Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking Order
Neutral Citation: Yes/No
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To

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C.SARAVANAN, J.

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