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W.P. Nos.29595 of 2017 and  
20360 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2023

CORAM

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

W.P. Nos.29595 of 2017 and 20360 of 2019  
and  
W.M.P. No.19696 of 2019

M/s.P.R.Agency  
Rep. By its Managing Partner,  
S. Ravichandran ... Petitioner in both W.P.s

Vs

1. The Commissioner of Customs,  
Chennai VIII Commissionerate,  
Custom House,  
No.60, Rajaji Salai,  
Chennai – 600 001.

2. The Deputy Commissioner of Customs  
(Customs Broker)  
Custom House,  
No.60, Rajaji Salai,  
Chennai – 600 001.

3. The Traffic Manager,  
Chennai Port Trust,  
Administrative Office,  
Rajaji Salai,  
Chennai – 600 001.

... Respondent in W.P. No.  
29595 of 2017



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The Traffic Manager,  
Chennai Port Trust,  
Administrative Office,  
Rajaji Salai,  
Chennai – 600 001.

... Respondent in W.P. No.  
20360 of 2019

**Prayer in W.P. No.29595 of 2017 :** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus direct the 3<sup>rd</sup> respondent to remove the petitioner's name from the blacklist of the 3<sup>rd</sup> respondent.

**Prayer in W.P. No.20360 of 2019 :** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 17.04.2019 passed by the respondent in F. No.GL/189/2014/TC and quash the same.

For Petitioner in both W.P.s : Mr.Hari Radhakrishnan

For R3 in W.P. No.29595 of 2017

and

For sole Respondent in

W.P. No.20360 of 2019 : Mr.K. Lavan

### **COMMON ORDER**

As the issue in these writ petitions relate to one another, both these writ petitions are considered together and disposed of by this common order.



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2. It is the case of the petitioner that the petitioner firm has been working as a Customs Broker for more than a decade. It is averred that based on a complaint from the respondent / Chennai Port Trust alleging that the petitioner/Customs Broker had tampered and forged the Import Application No.20795582, dated 03.03.2014 and the “B” Form of the Import Application showing the port charges as excess instead of Rs.11,93,150/-, prohibitory order, dated 24.06.2015 was issued, due to violation of certain Regulations. After considering the written submissions/explanations, the Commissioner of Customs – Chennai – VIII has passed the Order, dated 30.11.2015, thereby, the prohibitory order, dated 24.06.2015 was revoked. However, it was mentioned in the order dated 30.11.2015, that the Customs Broker is not absolved from all the charges made against them in the prohibition order dated 24.06.2015. It is their grievance that subsequent to passing of the aforesaid order dated 30.11.2015, the respondent / Chennai Port Trust has issued the impugned communication, dated 17.04.2019. Aggrieved over the impugned communication, dated 17.04.2019, W.P. No.20360 of 2019 has been filed seeking for quashment of the same.



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3. It is averred that in the interregnum period i.e., from 2015 to 2017, due to restrictions / threat of black listing of the name of the petitioner by the 3<sup>rd</sup> respondent / Chennai Port Trust, W.P. No.29595 of 2017 has been filed seeking for a direction to the 3<sup>rd</sup> respondent to remove the petitioner's name from the said blacklist.

4. Reiterating the grounds raised in this writ petition, learned counsel for the petitioner placed his arguments that the petitioner has suffered several legal battles, due to issuance of show cause notice, initially. Subsequent to revocation of the prohibitory order, viz., the Order-in-Original dated 30.11.2015 passed by the Commissioner of Customs, Chennai – VIII, Chennai, which is in favour of the petitioner, the respondent / Port Trust has passed the impugned Communication, which is arbitrary and illegal.

5. Learned counsel further submitted that challenging the order dated 30.11.2015, an appeal was preferred before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), Chennai in Appeal No.C/40609/2016-DB, which was dismissed on 01.02.2022, thereby the order enured in favour of the petitioner. Hence, he prays before this Court to set aside the impugned order dated 17.04.2019 passed by the respondent / Chennai Port



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Trust. Further prayer is also made for a direction to the respondents not to include the name of the petitioner in the blacklist.

6. Per contra, Mr.K. Lavan, learned counsel for the respondent / Chennai Port Trust submitted that based on a complaint, show cause notice was issued to the petitioner. Though, the petitioner has submitted its explanations that 'B' Form was forged by someone else, they have not taken any action to file complaint with the authorities concerned against the forgery. That being the position, the respondent / Chennai Port Trust has sent an internal communication not to engage the services of the petitioner, but they have not proceeded further in respect of blacklisting the name of the petitioner. He further submitted that in view of final orders being passed by CESTAT, Chennai, on 01.02.2022, the petitioner's grievance will be re-considered by the respondent / Chennai Port Trust. Hence, he has no objection to set aside the impugned Communication, dated 17.04.2019 as well as for issuance of appropriate directions in the above regard in W.P. No.20360 of 2019. He fairly submitted that in view of the aforesaid stand, the relief sought for in W.P. No.29595 of 2017 has now become infructuous and the same may be recorded by this Court.



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7. Heard the learned counsel on both sides and perused the materials placed on record.

8. Admittedly, the petitioner is a Customs Broker. It is not in dispute that due to an allegation levelled against the petitioner in respect of “B” Form submission, which is alleged to have been forged, show cause notice has been issued by the respondent / Chennai Port Trust. Further, from the submissions of the learned counsel for the respondent / Chennai Port Trust, it is evident that the services of the petitioner were not taken but no further steps have been taken for blacklisting the name of the petitioner.

9. However, it further transpires from the materials that in the appeal preferred by the Customs authorities before the CESTAT, Chennai, it was held in favour of the petitioner, vide Final Order No.40028 of 2022, dated 01.02.2022. In the aforesaid backdrop, it is the stand of the respondent / Chennai Port Trust that it will re-consider the issue and to that end, plea is made to set aside the impugned communication and remand the matter for fresh consideration.



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10. In view of the above facts and circumstances and also the fair stand taken by the respondents, this Court sets aside the impugned order, dated 17.04.2019 passed by the respondent in W.P. No.20360 of 2019 and the matter is remanded to the respondent for fresh consideration. Accordingly, the respondent is directed to pass final orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. W.P. No.20360/2019 is allowed in the aforesaid terms.

11. In view of the order passed in W.P. No.20360/2019, the prayer sought for in W.P. No.29595 of 2017 has become infructuous and, accordingly, the writ petition is dismissed as infructuous.

12. No costs. Consequently, connected miscellaneous petition is also closed.

**31.03.2023**

Index: Yes/ No  
Speaking order / Non speaking order  
Neutral citation : Yes / No  
vsi2



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**M.DHANDAPANI, J.**

vsi2

To

1. The Commissioner of Customs,  
Chennai VIII Commissionerate,  
Custom House,  
No.60, Rajaji Salai,  
Chennai – 600 001.

2. The Deputy Commissioner of Customs  
(Customs Broker)

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