



WEB COPY



WP(MD)No.24211 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.24211 of 2023
and W.M.P(MD).No.20399 of 2023

M/s.Fashions Knit Garments,
Prop.P.M.Kumar

.. Petitioner

vs.

1.The Assistant Commissioner of Customs
Office of the Commissioner of Custom,
Custom House, New Harbour Estate,
Tuticorin-628 004.

2.The Commissioner of Customs (Appeal),
No.1, Williams Road, Cantonment,
Trichy-1.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned order dated 19.04.2023 in DIN-202304810H000000ADF2 passed by the first respondent and quash the same as against the statutory obligations as devoid of any merits and the said impugned order is illegal.

For Petitioner : Mr.S.Kasiramalingam

For Respondents : Mr.N.Dilipkumar
Standing Counsel



WP(MD)No.24211 of 2023

WEB COPY

ORDER

This Writ Petition has been filed challenging the impugned order, dated 19.04.2023 passed by the first respondent directing the petitioner to repay the duty drawback amount of Rs.5,43,651/- (Rupees Five Lakhs Forty Three Thousand Six Hundred and Fifty One only) along with penalty of Rs.1,36,000/- (Rupees One Lakh Thirty Six Thousand only).

2. The learned counsel appearing for the petitioner submits that the petitioner has exported some goods to foreign countries, for which, he is entitled for Drawback Scheme of the Government of India and he was sanctioned with the Drawback amount to an extent of Rs.5,43,651/- (Rupees Five Lakhs Forty Three Thousand Six Hundred and Fifty One only). Due to COVID-19, the petitioner has not placed the Bank Realisation Certificate before the Authority at the time of enquiry, however, the said Certificate is very much available in the webportal of Directorate General of Foreign Trade. The respondents have failed to verify the same and proceeded with the enquiry and passed the impugned order, dated 19.04.2023.



WP(MD)No.24211 of 2023

3. The learned Standing Counsel appearing for the respondents submits that before passing the impugned order, the petitioner was provided with a show cause notice, however, he failed to appear before the Authority and therefore, with the available materials, the impugned order has been passed by the first respondent on 19.04.2023. He further submits that if the petitioner is having the Bank Realisation Certificate as claimed by him, he ought to have produced the same before the Authority.

4. This Court considered the rival submissions made by both sides and perused the materials available on record.

5. The petitioner claims that he is having Bank Realisation Certificate and he has been sanctioned with the amount of Rs.5,43,651/- (Rupees Five Lakhs Forty Three Thousand Six Hundred and Fifty One only) under the Drawback scheme of the Government of India and that the said Certificate is very much available in the webportal of Directorate General of Foreign Trade.

6. It is not disputed by the learned counsel appearing for the petitioner that before passing the impugned order, the petitioner was provided with a show cause



WP(MD)No.24211 of 2023

notice. However, the first respondent, without verifying the Bank Realisation Certificate of the petitioner which is available in the webportal of Directorate General of Foreign Trade, has passed the impugned order directing the petitioner to repay the duty drawback amount of Rs.5,43,651/- (Rupees Five Lakhs Forty Three Thousand Six Hundred and Fifty One only) along with a penalty of Rs. 1,36,000/- (Rupees One Lakh Thirty Six Thousand only). Hence, the impugned order dated 19.04.2023 passed by the first respondent is set aside and the matter is remanded back to the first respondent for conducting a fresh enquiry. The first respondent shall conduct fresh enquiry in the second week of December 2023 and provide an opportunity of hearing to the petitioner and pass appropriate orders, after considering the documents and the Bank Realisation Certificate which are to be produced by the petitioner.

7. Accordingly, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No

22.11.2023

NCC : Yes / No

Internet : Yes

ssb

Note: Issue order copy on **28.11.2023**



WP(MD)No.24211 of 2023

WEB COPY

To

- 1.The Assistant Commissioner of Customs
Office of the Commissioner of Custom,
Custom House, New Harbour Estate,
Tuticorin-628 004.
- 2.The Commissioner of Customs (Appeal),
No.1, Williams Road, Cantonment,
Trichy-1.



WEB COPY



WP(MD)No.24211 of 2023

B.PUGALENDHI, J.

ssb

WP(MD)No.24211 of 2023

22.11.2023