



W.P.Nos.10269, 13296 & 13298 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.10269, 13296 & 13298 of 2021 and
WMP.Nos.10866, 14121 & 14122 of 2021

WP.No.10269 of 2021

M/s.RAS ADYAR HOTELS Pvt.Ltd.,
(IEC No.0408002271)
No.162, Justice V.Ramaswami Road,
Kamaraj Avenue, Adyar,
Chennai 600 020

...Petitioner

Vs.

1.Deputy Director General of Foreign Trade,
4th Floor, Shastri Bhavan,
26, Haddows Road,
Chennai 600 006
2.M/s.RBL HOTELS PRIVATE LIMITED,
Represented by its Director, FM House,
302, Anna Salai, Teynampet, Chennai 600 006
(R2 impleaded as per order dated 05.06.2024
in WMP.No.16176 of 2021 in WP.No.10269
of 2021)

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorari calling for the records on the file of the first respondent in F.No.04/21/021/00499/AM10 culminating in order dated 04.03.2021 passed by the first respondent, quash the same



W.P.Nos.10269, 13296 & 13298 of 2021

as illegal, arbitrary and devoid of merit.

For Petitioner : Mr.Ashokpathy
for Mr.Anand Sashidharan

For Respondents
For R1 : Mr.Rajesh Vivekananthan,
Assistant Solicitor General of India

For R2 : No appearance

WP.No.13296 of 2021

M/s.RAS ADYAR HOTELS Pvt.Ltd.,
(IEC No.0408002271)
No.162, Justice V.Ramaswami Road,
Kamaraj Avenue, Adyar,
Chennai 600 020

...Petitioner

Vs.

1.Deputy Director General of Foreign Trade,
4th Floor, Shastri Bhavan,
26, Haddows Road,
Chennai 600 006

2.M/s.RBL HOTELS PRIVATE LIMITED,

Represented by its Director, FM House,

302, Anna Salai, Teynampet, Chennai 600 006

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorari calling for the records on the file of the first respondent in F.No.04/21/021/00312/AM10 culminating in order dated 12.04.2021 passed by the first respondent, quash the same as illegal, arbitrary and devoid of merit.

For Petitioner : Mr.Ashokpathy
for M/s.Pass Associates



W.P.Nos.10269, 13296 & 13298 of 2021

WEB COPY

For Respondents

For R1 : Mr.V.Chandrasekaran,
Senior Panel Counsel

For R2 : No appearance

WP.No.13298 of 2021

M/s.RAS ADYAR HOTELS Pvt.Ltd.,
(IEC No.0408002271)
No.162, Justice V.Ramaswami Road,
Kamaraj Avenue, Adyar,
Chennai 600 020

...Petitioner

Vs.

1.Deputy Director General of Foreign Trade,
4th Floor, Shastri Bhavan,
26, Haddows Road,
Chennai 600 006

2.M/s.RBL HOTELS PRIVATE LIMITED,
Represented by its Director, FM House,
302, Anna Salai, Teynampet, Chennai 600 006 ... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorari calling for the records on the file of the first respondent in F.No.04/21/021/00097/AM10 culminating in order dated 19.04.2021 passed by the first respondent, quash the same as illegal, arbitrary and devoid of merit.

For Petitioner : Mr.Ashokpathy
for Mr.Anand Sashidharan

For Respondents
For R1 : Mr.V.Chandrasekaran,
Senior Panel Counsel



W.P.Nos.10269, 13296 & 13298 of 2021

WEB COPY

For R2 : No appearance

COMMON ORDER

The writ petition in WP.No.10269 of 2021 has been filed challenging the order of the first respondent in F.No.04/21/021/00499/AM10 dated 04.03.2021; the writ petition in WP.No.13296 of 2021 has been filed challenging the order of the first respondent in F.No.04/21/021/00312/AM10 dated 12.04.2021; and the writ petition in WP.No.13298 of 2021 has been filed challenging the order of the first respondent in F.No.04/21/021/00097/AM10 dated 19.04.2021, thereby imposed penalty of Rs.75,00,000/-, Rs.60,00,000/- and Rs.70,00,000/- respectively under Section 13 of Foreign Trade (Development & Regulation) Act, 1992 r/w Foreign Trade (Development & Regulation) Amendment Act, 2010 in addition to the customs duty and interest thereon under Section 11(2) of Foreign Trade (Development & Regulation) Act, 1992 r/w Foreign Trade (Development & Regulation) Amendment Act, 2010 and further ordered that no further licences shall be given to the petitioner and its Directors for the reason that in the absence of complete export documents towards fulfilment of export



W.P.Nos.10269, 13296 & 13298 of 2021

obligation and installation certificate as well as in the absence of documentary proof for having paid the duty, saved value utilised and interest thereon in case of non fulfilment of export obligation intended for the licence, therefore the petitioner had misutilised the scheme and wilfully defaulted in fulfilling the export obligation.

2. The learned Additional Solicitor General of India and the learned Senior Panel Counsel appearing for the first respondent raised preliminary objection that the writ petitions themselves are not maintainable since there is a statutory appeal remedy provided under Section 15 of Foreign Trade (Development & Regulation) Act, 1992.

3. Therefore, without exhausting the appeal remedy, the writ petitions are not maintainable under Article 226 of the Constitution of India since the petitioner failed to make other grounds to entertain the writ petitions without exhausting the appeal remedy, such as without jurisdiction, principles of violation of natural justice and the order of penalty is arbitrary in nature.



W.P.Nos.10269, 13296 & 13298 of 2021

WEB COPY

4. In view of the above, all the writ petitions are dismissed as not maintainable. However, the petitioner is at liberty to file appeal as against the orders passed by the first respondent in accordance with law within a period of two weeks from the date of receipt of copy of this order. It is made clear that the period of pendency of these writ petitions may be excluded while calculating the limitation while preferring appeal. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

26.06.2024

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
lok



W.P.Nos.10269, 13296 & 13298 of 2021

WEB COPY

To

1. Deputy Director General of Foreign Trade,
4th Floor, Shastri Bhavan,
26, Haddows Road,
Chennai 600 006

2. Director,
M/s.RBL HOTELS PRIVATE LIMITED,
FM House,
302, Anna Salai, Teynampet, Chennai 600 006



WEB COPY



W.P.Nos.10269, 13296 & 13298 of 2021

G.K.ILANTHIRAIYAN, J.

lok

W.P.Nos.10269, 13296 & 13298 of 2021

26.06.2024