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W.P.No.13439 of 2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 18.10.2024**

**CORAM**

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

**W.P.No.13439 of 2021**

**And**

**W.M.P.No.14313 of 2021**

M/s.Shri Indhira Cotton Mills Pvt. Ltd.  
Represented by its General Manager  
Mr.K.Selvarajan

... Petitioner

Vs.

1.The Zonal Joint Director General of Foreign Trade  
Ministry of Commerce and Industry  
4th Floor, Shastri Bhavan Annexe  
No.26, Haddows Road,  
Chennai – 600 006.

2.Additional Director General of Foreign Trade  
Ministry of Commerce and Industry  
4th Floor, Shastri Bhavan Annexe  
No.26, Haddows Road,  
Chennai – 600 006.

3.Additional Commissioner of Customs  
EODC – Chennai – IV,  
Customs House,  
No.60, Rajaji Salai,  
Chennai – 600 001.

4.Joint Commissioner of Customs  
EODC – Chennai – IV,  
Customs House,  
No.60, Rajaji Salai,  
Chennai – 600 001.

... Respondents



W.P.No.13439 of 2021

**Prayer:**

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records comprised in impugned order in Original No.82691/2021 dated 31.03.2021 in the file of the third respondent and quash the same with direction to respondents 3 and 4 not to proceed further in the subject matter till the application dated 25.07.2013 of the petitioner disposed by the respondents 1 and 2.

For Petitioner : Mr.P.Purushotham  
For Respondents : Mr.G.Ilangovan for R1  
Standing Counsel  
R2 to R4 – No Appearance

**ORDER**

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records comprised in the order in Original No.82691/2021 dated 31.03.2021 on the file of the third respondent and quash the same with direction to respondents 3 and 4 not to proceed further in the subject matter till the application dated 25.07.2013 of the petitioner is disposed by the respondents 1 and 2.



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2.The learned counsel appearing for the petitioner submitted that the petitioner Company was granted EPCG licence dated 27.03.2013 by the first respondent and on the basis of the same, imported capital goods vide B/E No.997685 dated 12.04.2006 availing the concessional benefit of customs duty on giving undertaking to comply with the conditions prescribed for export obligation. Annexure-A attached to the said EPCG licence at clause 9 mentions the name and address of Supporting Manufacturer i.e., M/s.AKCT Chidambaram Cotton Mills Private Limited, Thiruvannamalai. The petitioner after complying with the prescribed conditions/ formality of export obligation, filed application in Form-ANF-5B on 25.07.2013 with the first respondent requesting to furnish Export Obligation Discharge Certificate [in short EODC] so as to redeem the EPCG licence.

3.The learned counsel appearing for the petitioner further submitted that the Assistant Director General of Foreign Trade through his letter pointed out the shortcomings in the documents submitted along with the application dated 25.07.2013 and in response to the said letter, the petitioner submitted the requisite documents. In the meanwhile, the Assistant Director General of Foreign Trade issued



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show cause notice dated 16.02.2017 alleging that the petitioner violated the provisions of Sections 8 and 11 of the Foreign Trade (Development and Regulation) Act, 1992 and contravening the provisions of Foreign Trade Policy 2004-2009.

4.The learned counsel appearing for the petitioner further submitted that the petitioner filed a detailed reply vide letter dated 03.03.2017 along with supportive documents and denied the allegation of violation of various provisions of Foreign Trade (Development and Regulation) Act, 1992 and Foreign Trade Policy 2004-2009 and requested for personal hearing, however, a fresh show cause notice dated 02.07.2019 was issued by the Deputy Director General of Foreign Trade with the same allegation that was raised in the show cause notice dated 16.02.2017. Thereafter, the petitioner vide letter dated 18.07.2019 denied the allegation in the show cause notice dated 02.07.2019 and requested the Director General of Foreign Trade to process the application dated 25.07.2013 and to issue EODC.

5.The learned counsel appearing for the petitioner further submitted that thereafter, the fourth respondent issued a show cause notice dated 31.01.2020 to the petitioner alleging that the petitioner



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had not fulfilled the Export Obligation and the petitioner submitted a detailed reply along with supportive and necessary documents, however, the third respondent passed the impugned order confiscating the imported goods valued at Rs.21,60,314/- under Section 111(o) of the Customs Act, 1962 with an option to redeem the confiscated goods on payment of redemption fine of Rs.2,16,031/- under Section 125 of the Custom Act, 1962 and imposing penalty of Rs.68,360/- under Section 112(a) of the Customs Act, 1962 on the petitioner.

6.The learned counsel appearing for the petitioner further submitted that the impugned order has been passed without jurisdiction and the same is liable to be interfered with by this Court under Article 226 of the Constitution of India.

7.The learned standing counsel appearing for the first respondent submitted that there is effective appeal remedy available to the petitioner under Section 15 of the Foreign Trade (Development and Regulation) Act, 1992, before the Additional Director General of Foreign Trade, Chennai and without exhausting the appeal remedy, the petitioner has filed this writ petition, which is not sustainable one.



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8.Heard the arguments advanced on either side and perused the materials available on record.

9.As against the impugned order, there is effective appeal remedy available to the petitioner under Section 15 of the Foreign Trade (Development and Regulation) Act, 1992, before the Additional Director General of Foreign Trade, Chennai. The petitioner is at liberty to canvass all the grounds raised in this writ petition before the Appellate Authority. The period during which the writ petition was pending before this Court is excluded for the purpose of limitation so as to enable the petitioner to prefer appeal before the Appellate Authority.

10.The writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

18.10.2024

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Speaking Order/ Non Speaking Order  
Index: Yes/ No  
Internet: Yes/ No

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**M.DHANDAPANI,J.**  
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