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W.P.Nos.5473, 5476 and 5477 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.5473, 5476 and 5477 of 2021

and

W.M.P.Nos.6072, 6073, 6076, 6078, 6081 and 6082 of 2021

M/s.P.S.Apparels (IEC No.0488063003)

... Petitioner in all WPs

Vs.

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

... Respondent in all WPs

Prayer in W.P.No.5473 of 2021 : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the Respondent in F. No. 04 / 36 / 021 / 00005 / AM03 culminating in order dated 16.06.2020 passed by the respondent, quash the same as illegal, arbitrary and devoid of merit.

Prayer in W.P.No.5476 of 2021 : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the Respondent in F. No. 04 / 21 / 021 / 0532 / AM05 culminating in order dated 20.08.2020 passed by the respondent, quash the same as illegal, arbitrary and devoid of merit.



Prayer in W.P.No.5477 of 2021 : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the Respondent in F. No. 04 / 21 / 021 / 00105 / AM04 culminating in order dated 17.07.2020 passed by the respondent, quash the same as illegal, arbitrary and devoid of merit.

For Petitioner : Mr.Muthu Venkat Raman
for Mr.Anand Sashidharan
(in all WPs)

For Respondent : Mr.L.Infant Dinesh, CGSC
(in all WPs)

COMMON ORDER

The order in original dated 16.06.2020, 17.07.2020 and 20.08.2020 passed by the Deputy Director General of Foreign Trade are under challenge in these writ petitions.

2. The orders impugned would indicate that a fiscal penalty in addition to the custom duty along with the interest has been imposed on the petitioner for non-compliance for the obligations.



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3. The learned counsel for the petitioner submitted that admittedly an Appeal has been contemplated under the provisions of the Act. Thus, the petitioner may be permitted to exhaust the appellate remedy as contemplated.

4. The learned Standing counsel appearing on behalf of the respondent would submit that they have no objection for the purpose of preferring an Appeal. But the time limit fixed for preferring an Appeal has been expired.

5. This Court is of the considered opinion that the disputed facts raised in these writ petitions with reference to the order in original deserves to be adjudicated before the Appellate Authority. The Appellate Authority is empowered to scrutinize the original document for the purpose of forming a final opinion. Thus, the importance of exhausting the appellate remedy at no circumstance may be undermined. The factual findings of the Original Authority would be of greater assistance to the High Court for the purpose of exercise of powers of judicial review in an effective manner.



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6. In the present case, the petitioner has been given liberty to prefer an Appeal under Section 15 of the Foreign Trade (Development and Regulation) Act, 1992 read with the Foreign Trade (Development and Regulation) Amendment Act, 2010 as amended from time to time. The Appellate Authority is the Additional Director of Foreign Trade, Chennai. Thus, the petitioner is at liberty to prefer an Appeal within a period of 45 days from today. On receipt of any such Appeal, the Appellate Authority shall entertain the Appeal and condone the delay and decide the issues on merits and in accordance with law by affording opportunity to the parties and by following the procedures as contemplated.

7. With the above directions, these Writ Petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

06.02.2024

Jeni
Index : Yes
Speaking order



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To

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



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S.M.SUBRAMANIAM, J.

Jeni

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