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W.P.No.2046 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.2046 of 2021

M/s.Tanmay Distributor,
5/8 Pallikudam 3rd Street,
Virugambakkam,
Chennai – 600 092.
Rep by M.Kewal Chand-Prop.

... Petitioner

Vs.

- 1.The Director,
Ministry of Shipping,
Government of India,
Transport Bhawan, 1, Parliament Street,
New Delhi – 110 001.
- 2.The Director (AS),
Central Board of Indirect Taxes & Customs
Anti-Smuggling Unit,
Ministry of Finance,
Department of Revenue,
Room No.501, 5th Floor, Hudco Vishala Building,
Bhikaji Cama Place,
New Delhi – 110 066.
- 3.The Principal Commissioner of Customs,
Chennai Customs (Preventive),
O/o The Commissioner of Customs,
Chennai – III Customs House, 60, Rajaji Salai,
Chennai – 600 001.



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4.The Commissioner of Customs,
Chennai – IV,
Customs House, 60, Rajaji Salai,
Chennai – 600 001.

5.M/s.SICAL Multimodal and Rail Transport
Ltd – CFS Division,
144, Ponneri High Road,
Vallur, NCTPS,
Chennai – 600 120.

6.M/s.Interasia – Shipping Lines India Pvt. Ltd,
First Floor, New No.192 Old No.879,
Poonamallee High Road,
Chennai – 600 084.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution for issuance of a Writ of Mandamus to direct the 4th respondent to carry out the directions contained in her order F.No.S.Misc.103/2019-Docks Admin. dated 15.04.2020 against the 5th and 6th respondents herein for not giving effect to the above order.

For Petitioner : Mr.P.Ayyamperumal

For Respondents : Mr.V.Chandrasekaran
for Mr.Venkatasamy Babu
Senior Standing Counsel
for R1 & R2
Mr.H.Siddarth
Junior Standing Counsel
for R3 & R4
No Appearance
for R5 & R6

ORDER



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There is no representation on behalf of the contesting respondent

Nos.5 and 6 namely M/s.SICAL Multimodal and Rail Transport Ltd and M/s.Interasia – Shipping Lines India Pvt. Ltd, but, they have filed their counter affidavit.

2. The petitioner has approached this Court for a direction to the private respondent Nos.5 and 6 herein to implement the content of order dated 15.04.2020, which was issued in the light of outbreak of Covid – 19 pandemic with effect from 24.03.2020, resulting in large scale distractions and closure of public utilities. Relevant circular/communication issued by the fourth respondent on 15.04.2020 bearing reference No.F.No.S.Misc 103/2019-Docks Admin which reads as under:-

“Attention of all importers, exporters, Customs Brokers, Custodians, Port Terminal Operators, Shipping Lines/Shipping Agents, PGAs, members of the Trade and all persons concerned is invited to Ministry of Shipping Order No.PD-14300/4/2020-PD VII dated 31.03.2020 issued under Section 111 of the Major Port Trust Act, 1963 which suggested non levy of penalties, demurrage, charges, fees, rentals for any delay due to nationwide lockdown.

2. This office is receiving complaints that CFSs are insisting for full payments of ground rent and other charges for delay in clearance of containers which could not be cleared due to reasons attributable to nationwide lockdown.

3. As laid down in GOI, CBIC Circular



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No.133/95-Cus dated 22.12.1995, a CFS is taken to be an extended arm of the Port and it functions as the Docks. Hence, you are requested to consider the waiver of ground rent, penalties and demurrage charges during the lockdown period from 25.03.2020 till such extended period.”

3. Having considered the submissions made by the learned counsel for the petitioner and the learned counsel for the respondent Nos.1 to 4, I am of the view that there can be no impediment in directing the private respondent Nos.5 and 6, to consider the representation of the petitioner dated 17.08.2024.

4. Accordingly, the respondent Nos.5 and 6 are directed to consider the representation of the petitioner dated 17.08.2024, in the light of the aforesaid circular/communication dated 15.04.2020 bearing F.No.S.Misc 103/2019-Docks Admin, the content of which has been extracted above, within a period of three months from the date of receipt of a copy of this order.

5. This writ petition stands disposed of. No costs.



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Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation : Yes/No

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To

The Assistant Commissioner (CT),
Broadway Assessment Circle,
No.32, Room No.304, Integrated Commercial Taxes Complex,
Elephant Gate Bridge Road, Vepery,
Chennai – 600 003.

C.SARAVANAN, J.

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