



W.P.No.20370 of 2021

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2024

CORAM

THE HON'BLE MR.JUSTICE M. DHANDAPANI

Writ Petition No.20370 of 2021
and W.M.P.No.21623 of 2021

M/s.Nexjet Impex India
No.918, 12th Cross Stree,
M.K.B Nagar,
Chennai-600 039

By its proprietor Mr.L.Sher Khan

..

Petitioner

Vs.

The Joint Director General of Foreign Trade
O/o The Zonal Addl. Director General of
Foreign Trade,
Govt. Of India, Ministry of Commerce & Industry,
26, Haddows Road, Shastri Bhavan Annexe,
Chennai-600 006.

..

Respondent

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a writ of certiorari to call for the records connected with the impugned Suspension Order dated 25.08.2021 in F.No.04(95) I(8)(5)(1)/ECA/AM22 passed by the respondent herein and to quash the same, in so far as, the said impugned suspension order had been passed with jurisdiction and authority of law and contrary to the statutory provision and in total violation to the principles of natural justice, as no opportunity of personal hearing was granted to the petitioner and also violating the fundamental rights guaranteed to the petitioner in terms of Article 19 (1)(g) and 301 of the Constitution of India.



W.P.No.20370 of 2021

For the Petitioners : Mr.S.Baskaran
For the Respondent : Mr.V.Ashok Kumar

ORDER

Originally, the petitioner proprietorship concern by name M/s.Nexjet Impex was issued with the Importer Exporter Code No.0412001144 dated 16.04.2012 and after December 2020, no import was made in the name of the petitioner proprietorship concern. While that being so, the petitioner came to know that illegal import was made in the name of the petitioner proprietorship concern vide Bill of Entry No.4257751, dated 09.06.2021 and thereupon petitioner concern made several representations before the the Customs authorities. Based on the above said incident, respondent herein had issued a show cause notice dated 15.07.2017, to show cause why the petitioner concern should not be kept under Denied Entry List (DEL) and the IEC be suspended, for which the petitioner had given a reply dated 29.07.2017, stoutly contesting the said proposal and placed on record various documents and details stating that illegal import was carried out in the name of the petitioner concern by some



W.P.No.20370 of 2021

unscrupulous persons. However, on 25.08.2021, the respondent had suspended the importer exporter Code issued to the petitioner. Challenging the same the present Writ Petition is filed.

2. Learned counsel for the petitioner would submit that from December 2020 no import was made by the petitioner proprietorship concern and no approval was given to any person to import goods in the name of the petitioner proprietorship concern. He would further submit that the petitioner also made representation to the SIIB authorities to take immediate action against the persons for illegal import in the name of the petitioner proprietorship concern. On 15.07.2021 respondent issued show cause notice and on 29.07.2021 petitioner promptly replied to the show cause notice. However, without affording an opportunity to the petitioner, the respondent passed the suspension order on 25.08.2021 causing serious prejudice and hardship to the petitioner concern.



W.P.No.20370 of 2021

WEB COPY

3. Learned counsel for the respondent has filed counter affidavit and contended that the respondent had received inputs from the office of the Principal Commissioner of Customs, Special Intelligence and Investigation Branch (SIIB-AIIR), Air Cargo, Chennai, informing that the petitioner was found smuggling gold into the country in the form of “Gold Concealed in small spherical balls/beads form”. Hence, the respondent duly acted upon the inputs received and issued the show cause notice dated 15.07.2021 as the charges levelled against the petitioner were grave in nature and could not be ignored. It is further submitted that the suspension order dated 25.08.2021 has been passed by the Competent Authority in due exercise of powers conferred under Section 8(1) of the FTDR Act read with FTDR Amendment Act, 2010 and the petitioner has not preferred the statutory appeal before the Appellate Authority viz., The Zonal Additional General of Foreign Trade. Hence, without exhausting the alternate remedy before the Appellate Authority, the petitioner has rushed to this Court by invoking Article 226 of Constitution of India which is not maintainable and prays to dismiss the Writ Petition.



W.P.No.20370 of 2021

WEB COPY

4. Heard both sides and perused the materials placed on record.

5. Considering the submissions made by both sides and upon perusal of the records, without expressing any views on the merits of the matter, this Court is inclined to issue a direction to the respondent to conduct and conclude the enquiry by providing sufficient opportunity to the petitioner and pass appropriate orders in the manner known to law within a period of twelve weeks from the date of receipt of copy of this order.

6. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

30.08.2024

Index : Yes/No
Neutral Citation : Yes/No
jai



WEB COPY



W.P.No.20370 of 2021

M.DHANDAPANI, J.
jai

To

1.The Joint Director General of Foreign Trade
O/o The Zonal Addl. Director General of
Foreign Trade,
Govt. Of India, Ministry of Commerce & Industry,
26, Haddows Road, Shastri Bhavan Annexe,
Chennai-600 006.

W.P.No.20370 of 2021

30.08.2024