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W.P.No.18788 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.18788 of 2024

And

W.M.P.Nos.20607, 20609 and 20610 of 2024

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

... Petitioner

Vs.

- 1.The Chairman
The Policy Relaxation Committee
Ministry of Commerce and Industry
Director General of Foreign Trade,
Udyog Bhawan, New Delhi – 110 011.
- 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.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.
- 4.Additional Commissioner of Customs
EODC – Chennai – IV,
Customs House,
No.60, Rajaji Salai,
Chennai – 600 001.



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

... Respondents

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 F.No. CHNECAAPPLY00001596AM24 dated 15.05.2024 on the file of the third respondent and quash the same with direction not to proceed further in the subject matter till the Application No.ARNAPPLYPRC 01792967 AM 22 dated 23.07.2021 (File No.HQRPRCAPPLY 00146195 AM22) disposed by the first respondent.

For Petitioner : Mr.P.Purushotham
For Respondents : Mr.K.Subbu Ranga Bharathi
for R1 to R3
Central Government Counsel
R4 and R5 – No Appearance

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records comprised in impugned order in Original F.No. CHNECAAPPLY00001596AM24 dated 15.05.2024 on the file of the third respondent and quash the same with direction not to proceed further in the subject matter till the

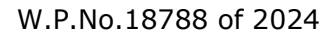


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Application No.ARNAPPLYPRC 01792967 AM 22 dated 23.07.2021 (File No.HQRPRCAPPLY 00146195 AM22) disposed by the first respondent.

2.The learned counsel appearing for the petitioner submitted that the petitioner Company was granted EPCG licence dated 27.03.2013 by the Zonal Joint Director General of Foreign Trade 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 second 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



4. The learned counsel appearing for the petitioner further admitted that the petitioner filed a detailed reply vide letter dated 03.02.2017 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 and requested for a final hearing, however, a fresh show cause notice dated 07.02.2019 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 07.02.2019 denied the allegation in the show cause notice dated 07.02.2019 and requested the Director General of Foreign Trade to dismiss the application dated 25.07.2013 and to issue EODC.



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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 had not fulfilled the Export Obligation and the petitioner submitted a detailed reply along with supportive and necessary documents, however, the fourth respondent passed an order confiscating the imported goods and imposing penalty on the petitioner and challenging the said order, the petitioner filed W.P.No.13439 of 2021 and an order of interim stay was granted by this Court on 29.06.2021 and this Court further directed the second respondent to dispose of the application dated 25.07.2013 filed by the petitioner, pursuant to which, the second respondent issued notice dated 09.07.2021 directing the petitioner to appear on 19.07.2021 for personal hearing and thereafter issued deficiency memo and the petitioner submitted its explanation, however, the impugned order was passed.

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.



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7.The learned Central Government Counsel appearing for the respondents 1 to 3 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.

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.



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

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

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