



W.P.No.22560 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.22560 of 2024 &
W.M.P.Nos.24572 & 24573 of 2024

M/s.K.Y.P.Logistics India Pvt. Ltd.,
1st Floor, KYP Towers,
S.N.Chetty Street, 8th Lane,
Kasimedu, Royapuram,
Chennai - 600 013.

... Petitioner

Vs.

The Commissioner of Customs (General),
Customs House, 60, Rajaji Salai,
Chennai - 600 001.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned common Show Cause Notice No.19/2024 dated 27.06.2024 issued by the second respondent and quash the same for having been passed without jurisdiction, contrary to law and in gross violation of the principles of natural justice.

For Petitioner : Mr.N.Viswanathan

For Respondent : Mr.G.Shanmugam
Junior Standing Counsel



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ORDER

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Challenging the Show Cause Notice No.19/2024, dated 27.06.2024, issued by the respondent, the present writ petition came to be filed by the petitioner.

2. The learned counsel for the petitioner submitted that the petitioner is a licensed customs broker having been granted the license by the respondent under the Customs Broker Licensing Regulations. While so, the respondent issued a common order dated 23.04.2024 suspending the customs broker license without taking note of the earlier notice issued to VJP Shipping India Pvt. Ltd and the fact that the petitioner had never acted as the customs broker for any of the importers said to be involved and without complying with mandate contained in Regulation 16 of the CBLR. Though the petitioner submitted its objections, the respondent passed the common order dated 21.05.2024, thereby continuing the suspension of the petitioner's customs broker license. It is further submitted by the learned counsel that as per Regulation 19 of the CBLR, the petitioner filed a statutory appeal before the CESTAT against the said order dated 21.05.2024 of the respondent. During the pendency of the same, the respondent issued the impugned show cause notice under section 17 of the CBLR and also appointed an inquiry



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officer to inquire into the correctness of the allegations made against the petitioner and others. Aggrieved by the same, the petitioner is before this court with the present writ petition for the aforesaid relief. According to the learned counsel for the petitioner, while the suspension order is in force, the respondent has arrived at a final conclusion as if the petitioner was found guilty and issued the show cause notice in a pre-determined manner and hence, the same is not sustainable in law.

3. On the other hand, the learned Junior standing counsel appearing for the respondent submitted that the show cause notice was issued only by the jurisdictional officer, who is empowered to do so. He further submitted that the notice was a consequence of the continued suspension order passed against the petitioner, and it was clearly stated therein that the petitioner must explain as to why their license should not be revoked. It is also submitted that without responding to the notice issued by the respondent, the petitioner has approached this court by filing the present writ petition, which is premature and is hence, liable to be dismissed.

4. I have considered the submissions made by both the learned counsel appearing for the petitioner and the respondent and also perused the materials available on record.



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5. Admittedly, what was questioned herein is the show cause notice dated 27.06.2024 issued by the respondent under Regulation 17(1) of the Customs Brokers Licensing Regulations (CBLR), 2018, thereby directing the petitioner to furnish its explanation in writing, as to why the license issued to them should not be revoked; security deposited by them should not be forfeited; and penalty should not be imposed in terms of Regulations 14 and 18 of the CBLR, 2018 for their failure to comply with the provisions of the CBLR, 2018. The said notice was consequent upon the continuation of suspension order passed by the respondent. It is also an admitted fact that as against the order dated 21.05.2024, suspending the petitioner's customs license, they preferred an appeal before the CESTAT, which is scheduled to be listed for hearing on 13.11.2024.

6. Though the learned counsel for the petitioner raised very many grounds including the power of the inquiry officer, this court is not inclined to go into the same in detail, as the issuance of show cause notice is a consequential act of the order of suspension dated 21.05.2024 passed by the respondent and the veracity of the allegations raised against the petitioner can be ascertained only after full fledged enquiry. That apart, the apprehension expressed by the learned counsel for the petitioner that if the Deputy Commissioner is proceeded to conduct enquiry, he may be guided by



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the Commissioner, who passed the suspension order, cannot be countenanced by this court. It is trite law that any enquiry officer has to decide the case independently, based on the materials available on record and if any adverse order is passed, it is always open to the parties to challenge the same in the manner known to law. Therefore, the writ petition filed by the petitioner to challenge the show cause notice is premature and cannot be entertained at this stage.

7. In such view of the matter, the writ petition deserves to be dismissed and is accordingly, dismissed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

13.08.2024

Speaking order
Index : Yes
Neutral Citation : Yes
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To

The Commissioner of Customs (General),
Customs House, 60, Rajaji Salai,
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KRISHNAN RAMASAMY.J.,
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