IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.09.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.27106 of 2024 &
W.M.P.No.29630 of 2024

M/s.Sean Queen Shipping Services
Private Limited,
License No.226/CHA (PAN No.AAACS6709B),
Rep. Kapali Arunachalapuram 2nd Street,
Adyar, Chennai - 600 020. ... Petitioner

Vs.

1.The Principal Commissioner of Customs (General),
Chennai Customs Zone, Custom House,
No.60, Rajaji Salai, Chennai - 600 001.

2.The Inquiry Officer,
Assistant Commissioner of Customs,
(Preventive Commissionerate),
Custom House, No.60, Rajaji Salai,
Chennai - 600 001. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the entire records of the first respondent herein leading to the issuance of the impugned show cause notice dated 21/2024 under Regulation 17(1) of CBLR 2018, dated 04.07.2024 issued in F.No.GEN/CB/SCN/6/2024-CBS, by the first respondent and quash the same as illegal, arbitrary, unfair and without jurisdiction and beyond limitation.

For Petitioner : Mr.A.K.Jayaraj

For Respondents : Mr.J.Vasu
Standing Counsel

ORDER

This writ petition challenges the show cause notice dated 04.07.2024 issued by the first respondent under Regulation 17(1) of the Customs Brokers Licensing Regulations, 2018 (hereinafter referred to as "CBLR").

2. The learned counsel for the petitioner contends that earlier show cause notices bearing Nos.37/2023-24 and 45/2023-24, both dated 22.12.2023, and No.46/2023-24 dated 21.12.2023, were issued by the Principal Commissioner of Customs, Air Cargo Complex (Import), New Delhi, for the alleged contravention of the Regulations on the part of the petitioner. The learned counsel would further submit that the present show cause notice dated 04.07.2024 came to be issued by the Principal Commissioner of Customs (General), Chennai Customs Zone, Chennai and the same is challenged by the petitioner on the ground that it had been issued beyond 90 days from the date of offence report and that, the earlier show cause notices under section 124 of the Customs Act, were already issued to the petitioner

and hence, the present proceedings is barred by limitation and without jurisdiction.

3. Per contra, the learned Standing Counsel appearing for the respondent would submit that upon investigation, it was found that the importers had mis-declared and undervalued the goods and hence, they are liable to be penalised under the provisions of the Customs Act, 1962. It is further submitted that based on the offence reports received, the show cause notice came to be issued, to which, the petitioner has to file their reply. Without filing their reply, they rushed to this court to challenge the same and hence the present writ petition is not maintainable.

4. I have heard the submissions on either side and perused the materials available on record.

5. According to the petitioner, the show cause notice which is impugned herein, is barred by limitation and without jurisdiction, as it had been issued beyond 90 days from the date of offence report, as prescribed under Regulation 17(1) of the Customs Brokers Licensing Regulations, 2018 (CBLR). On a perusal of the show cause notice, which is impugned herein, it is seen that offence reports were received in the form of show cause notices

dated 22.12.2023 and 21.12.2023 from the Principal Commissioner of Customs, Air Cargo Complex (Import), New Delhi, against the Customs Brokers. Pursuant to the same, the Principal Commissioner of Customs (General), Chennai Customs Zone, initiated the proceedings against the petitioner herein by issuing the present show cause notice dated 04.07.2024. As such, it is for the petitioner to give their reply to the same by raising all the grounds available to them, including the limitation and jurisdiction along with the necessary supportive documents. Without adopting such course, the petitioner approached this court by filing the present writ petition, which is premature and hence, the same cannot be entertained at this stage.

6. Finding no merit, the writ petition is liable to be dismissed and is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.09.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No

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To

1.The Principal Commissioner of Customs (General),
Chennai Customs Zone, Custom House,
No.60, Rajaji Salai, Chennai - 600 001.

2.The Inquiry Officer,
Assistant Commissioner of Customs,
(Preventive Commissionerate),
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KRISHNAN RAMASAMY.J.,

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