BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Monday, the Twelfth day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

WMP(MD). No.1592 of 2024
in
WP(MD) No.22142 of 2023

1.The Government of India,
Rep by its Secretary Department of Revenue,
Ministry of Finance New Delhi.

2.Central Board if Indirect Taxes and Customs,
Rep by its Chairman,
Department of Revenue,
Ministry of Finance, New Delhi.

3.The Commissioner of Customs(Pre.v)
O/o, The Commissioner of Customs(Prev.)
Trichy.

... Petitioners/Respondents

Vs

M/s. Kern Enterprises Private Limited,
Kern ICD (Custodian)
Rep by its Director,
H.Nagarajan ... Respondent/Petitioner

Prayer :-

This Writ Miscellaneous Petition is filed under Article 226 of the Constitution of India,to grant a further period of eight weeks to comply with the orders passed by this Honble Court in WP (MD) No.22142 of 2023 dated 04.12.2023.

ORDER:-

This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.N.Dilip Kumar, Advocate for the Petitioners/Respondents and of MS.N.Jasima Yasmin, Advocate for M/s.Ajmal Associates, for the respondent/Petitioner, this Court made the following order:

This Miscellaneous Petition is filed for grant of further period of eight weeks to comply with the orders passed by this Court in WP(MD) No.22142 of 2023, dated 04.12.2023.

2.WP(MD) No.22142 of 2023 was filed for a Mandamus, to direct the Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, New Delhi to de-notify the petitioner's Inland Container Depots(ICD) with effect from 01.04.2023, by considering the petitioner's application, dated 14.02.2023. This Court has disposed of that writ petition with the following directions:-

> "15.In view of the Circulars and the opinions as referred to above, this Court is of the view that the claim of the respondents in respect of Cost Recovery Charges for deployment of the additional customs Officials to the petitioner's Input Containers Depots for the period during which the services of the Customs officials have not been utilised by the petitioner is

not justified and on that ground, they are not supposed to deny the request of the petitioner to denotify their Inland Container Depots. Therefore, the respondents shall denotify the petitioner's Inland Container Depots within a period of two weeks from the date of receipt of a copy of this order. However, the respondents can work out their remedy with regard to the cost Recovery Charges, if any, liable to be paid by the petitioner in the manner known to law, after obtaining clarification from the Directorate General of Human Resources & Development (DGHRD), Delhi.”

3.The learned standing counsel appearing for the Department/petitioner herein submits that the as per Circular No.20 of 2021, dated 16.08.2021, certain regulations have to be followed to de-notify the Inland Container Depots (ICD) and therefore, they required some more time to comply with the order. Hence, a further period of eight weeks may be granted to the authorities.

4. By raising certain objections for grant of extension of time, the learned counsel appearing for the respondent herein submits that the Commissioner has to forward the proposal before two weeks from the date of expiry. However, in this case, the Commissioner has already passed an order and has recommended for de-notification. As per Clause 15(3) of the Circular, the decision has to be taken within a period of two weeks by the Board.

5.Considering the submissions made by the learned counsel on either side and the reasons stated in the affidavit filed in support of this Miscellaneous petition, a further period of six weeks from today is granted to comply with the order of this Court, dated 04.12.2023. Accordingly, this Miscellaneous Petition is ordered.

Sd/-
Assistant Registrar()

// True Copy //

/02/2024
Sub Assistant Registrar
(CS- I/ II / III / IV)

TO

1.The Government of India,
Rep by its Secretary Department of Revenue,
Ministry of Finance New Delhi.

2.Central Board of Indirect Taxes and Customs,
Rep by its Chairman,
Department of Revenue,
Ministry of Finance, New Delhi.

3.The Commissioner of Customs(Pre.v)
O/o, The Commissioner of Customs(Prev.)
Trichy.

ORDER DATED : 12/02/2024
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ORDER
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WMP(MD). No.1592 of 2024
in
WP(MD) No.22142 of 2023
Giving direction and etc.
as stated within.

MGJ(12.02.2024) 5P 4C