



W.P.(MD)No.2397 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.2397 of 2024 and
WMP(MD) Nos.2403 & 2406 of 2024

M/s.Statco Exports Pvt Ltd.,
Rep by its Director,
Mr.Arup Aditya,
X-11/F, (Old No.X-24/F) Park Towers,
Anna Nagar,
Chennai – 600 040.

... Petitioner

Vs

- 1.The Commissioner of Customs,
Custom House,
New Harbour Estate,
Tuticorin – 628 004.
- 2.The Assistant Commissioner of Customs (BRC),
Custom House,
New Harbour Estate,
Tuticorin – 628 004.
- 3.The Assistant Commissioner of Customs,
(Arrears Recovery Cell),
Custom House,
New Harbour Estate,
Tuticorin – 628 004.



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4.The Chief Manager,
Bank of Baroda,
International Business Branch,
No.45, Moore Street,
4th Floor,
Chennai – 600 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order-in-original No.396/2020 in C.No.VIII/20/292/2018-BRC, DIN:20200881OH00002EF3DA, dated 24.08.2020 passed by the second respondent and to quash the same as illegal, arbitrary, unfair, unreasonable and in clear violation of principles of natural justice and further direct the second respondent to rehear and dispose of the same on merits after affording opportunity of personal hearing and accepting the statement of Bank Realisation/BRC already furnished by the petitioner herein for the impugned shipping Bill No.1665349, dated 19.03.2024.

For Petitioner : Mr.A.K.Jayaraj
For Respondents : Mr.N.Dilip Kumar
Standing Counsel

ORDER

The petitioner was 100% Export Oriented Unit, an exporter of cotton woven powerloom bed covers, pillow covers, cushion covers



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and bags to France. Therefore, the petitioner is entitled for duty draw back, provided, if the sale proceeds are realised in foreign exchange within a period of six months. The petitioner was issued with a show cause notice that for a consignment made by the petitioner in the year 2014, the amount has not been realised and for non-realisation of export proceeds, the Tuticorin customs have issued an alert and subsequently, the impugned order has been passed with a direction to the petitioner to repay the duty drawback amount of Rs.3,54,029/- along with interest. According to the petitioner, after 2015, the petitioner had not run his unit due to loss in his business and the petitioner's office was not functioning. Therefore, the petitioner has not received the show cause notice and the related personal hearing intimations addressed to his office. According to the petitioner, for the consignment of the year 2014, the petitioner has received the Bank Realization Certificate on 20.10.2014 and the sale proceeds for Rs.48,95,725/- was realized by the Bank on 12.05.2014 and the same is very much available in the website of Directorate General of Foreign Trade. However, the respondent without verifying the same has issued



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the impugned order, directing the petitioner to re-pay the duty drawback amount along with interest. Therefore, the petitioner is before this Court.

2.Mr.N.Dilip Kumar, learned standing counsel takes notice for the respondents and submits that the petitioner has not produced the relevant materials/ Bank Realisation Certificate issued by the Directorate General of Foreign Trade at the time of enquiry though he was provided with sufficient personal hearing opportunities. Therefore, the impugned order came to be passed and hence, there is no need to interfere with the same.

3.This Court considered the rival submissions made and also perused the materials placed on record.

4.The petitioner, who was running a 100% Export Oriented Unit has availed the concession of duty draw back provided by the respondent Department. For the consignment made by the petitioner in



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the year 2014, the petitioner has failed to produce Bank Realization Certificate and therefore, the impugned order, directing the petitioner to repay the duty drawback amount with interest has been passed. The learned counsel for the petitioner has relied on the web portal of the Directorate General of Foreign Trade and submits that the consignment dated 19.03.2014 was realised in the petitioner's account on 12.05.2014 and he is also having the certificate to that effect. However, the petitioner claims that it could have been verified by the respondent in their portal before passing the impugned order. On the other side, the respondents claim that the certificate ought to have been produced by the petitioner at the relevant point of time. This Court, in order to provide one more opportunity to the petitioner, is inclined to remand this matter back to the authorities to consider the matter afresh.

5. In view of the above, this writ petition is allowed. The order impugned in this writ petition in No.396/2020 in C.No.VIII/20/292/2018-BRC, DIN:20200881OH00002EF3DA, dated 24.08.2020 is hereby set aside and the matter is remanded back to the



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respondents. The petitioner shall appear before the respondents on 15.02.2024, with the Bank Realization Certificate issued by the Directorate General of Foreign Trade and on such appearance, the respondents shall take a decision afresh after affording opportunity to this petitioner. No costs. Consequently, connected Miscellaneous Petitions are closed.

08.02.2024

NCC : Yes / No.

Index : Yes / No.

Internet: Yes / No.

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To

1.The Regional Transport Officer,
Regional Transport Office,
Aruppukottai,
Virudhunagar.

2.The Inspector of Police,
A.Mukkulam Police Station,
Virudhunagar District.



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B.PUGALENDHI, J.

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