IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **21.03.2025**

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P. Nos.577 and 581 of 2025
and
W.M.P.Nos.700, 701, 705 and 707 of 2025

Shri. Syed Khalid Ahmed ... Petitioner
In both W.Ps.

Vs.

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

2. The Inquiry Officer / Assistance Commissioner of Customs,
R & I Section (Airport), New Custom House,
Meenambakkam, Chennai - 600 027. ... Respondents
In both W.Ps.

<u>COMMON PRAYER</u>: Petitions filed under Article 226 of the Constitution of India in the nature of writ of certiorari and call for the records pertaining to the impugned show cause notice dated 28.03.2022 in F.No.R-245/CBS (OS. No.242) issued by the 1st respondent and impugned Inquiry Report dated 17.06.2022 submitted in F.No.R-245/CBS (OS. No.242) by the second respondent and quash the same.

For Petitioner
In both W.Ps. : Mr. Hari Radhakrishnan

For Respondents
In both W.Ps. : Mr. J. Vasu
Standing Counsel

COMMON ORDER

These writ petitions have been filed, challenging the impugned show cause notice dated 28.03.2022 and the impugned Inquiry Report dated 17.06.2022 issued by the respondents.

2. The petitioner has challenged the impugned show cause notice dated 28.03.2022 as well as the impugned Inquiry Report dated 17.06.2022 on the following grounds:

a) The 90 days time limit prescribed under Regulation 17 (5) of the Customs Brokers Licensing Regulations, 2018 (CBLR, 2018) has not been followed by the respondents;

b) The total time period to complete the proceedings against the customs broker as per the regulations of CBLR, 2018 is 270 days from the date of receipt of the offence report. In the present case, two years have gone by and the proceedings are yet to be concluded.

3. The petitioner is a customs broker. His licence is sought to be revoked under the impugned proceedings. Learned counsel for the petitioner drew the attention of this Court to the following documents, which are filed along with these writ petitions:

a) Impugned show cause notice dated 28.03.2022 issued by the first respondent;

b) Reply to impugned show cause notice dated 28.03.2022 sent by the petitioner;

c) Impugned Inquiry Report dated 17.06.2022 submitted by the second respondent;

d) Letter from the first respondent to the petitioner dated 18.11.2024 forwarding the impugned Inquiry Report dated 17.06.2022 submitted by the second respondent.

4. Learned counsel for the petitioner also drew the attention of this Court to the relevant regulations of CBLR, 2018 viz., regulations 17 (3), (5) and (7) and would submit that the time lines fixed under the aforesaid regulations have not been adhered to by the respondents. He would submit that the impugned Inquiry Report dated 17.06.2022 as per the regulation 17

(5) will have to be submitted within a period of 90 days from the date of the issuance of the show cause notice. According to him, since the Inquiry Report was submitted only on 18.11.2024 as seen from the letter issued by the first respondent to the petitioner, the respondents have not complied with regulation 17 (5) of the CBLR, 2018.

5. Learned counsel for the petitioner also submits that as per regulation 17 (7) of the CBLR, 2018, final orders, either revoking the suspension of the licence or revoking the licence of the customs broker, will have to be passed within 90 days from the date of submission of the report by the Deputy Commissioner of Customs or Assistant Commissioner Customs under sub-regulation (5). According to the learned counsel for the petitioner, till date, no final orders have been passed and therefore, regulation 17 (7) of the CBLR, 2018 has also not been adhered to by the respondents.

6. Learned counsel for the petitioner drew the attention of this Court to a Division Bench Judgment of this Court dated 13.10.2017 passed in C.M.A.No.730 of 2016 in the case of ***Santon Shipping Services Vs. The***

Commissioner of Customs, wherein similar regulations pertaining to Customs House Agent viz., regulation 22 (1) of the Customs House Agents Licensing Regulations, 2004 (CHALR, 2004) was held to be mandatory. Learned counsel for the petitioner also drew the attention of this Court to a decision rendered by a learned Single Judge of this Court in a batch of writ petitions in the case of ***KTR Logistics Solutions Pvt. Ltd. Vs. Commissioner of Cus., Chennai reported in 2020 (371) 685 (MAD.),*** following the aforesaid Judgment by holding that CBLR, 2018 is mandatory. Therefore, he would submit that timelines fixed under the regulations are mandatory and necessarily the same will have to be followed by the respondents. Having not followed the strict timelines, which are mandatory in nature, the impugned show cause notice dated 28.03.2022 as well as the impugned Inquiry Report dated 17.06.2022 will have to be quashed.

7. Learned standing counsel appearing for the respondents would submit that the regulations of CBLR, 2018 are only directory in nature and are not mandatory. He would rely upon a decision rendered by the Bombay high Court for the said propositions:

a) The dates and events referred in the affidavit filed in support of these writ petitions by the petitioner have not been disputed by the respondents as seen from counter filed before this Court.

8. Though the learned standing counsel for the respondents would rely upon a decision of the Bombay High Court to support his contention that CBLR, 2018 are only directory, this Court is bound by the Division Bench Judgment rendered by this Court in the case of ***Santon Shipping Services Vs. The Commissioner of Customs*** referred to supra, wherein similar regulations were held to be mandatory. Admittedly, the decision rendered by the Division Bench of this Court dated 13.10.2017 in C.M.A.No.730 of 2016 in the case of ***Santon Shipping Services Vs. The Commissioner of Customs*** referred to supra has attained finality.

9. The learned Single Judge of this Court has also followed the aforesaid Division Bench Judgment of this Court in his decision rendered in the case of ***KTR Logistics Solutions Pvt. Ltd. Vs. Commissioner of Cus., Chennai reported in 2020 (371) 685 (MAD.)*** by holding that CBLR, 2018 are mandatory in nature and therefore, the timelines fixed under those

regulations will have to be strictly followed.

10. As observed earlier, the respondents have not disputed that there was a delay on their part in complying with the timelines fixed in the CBLR, 2018 under regulation 17. However, the only contention before this Court is that those timelines are only directory in nature and therefore, for non compliance of timelines, the petitioner cannot seek for quashing of the impugned show cause notice dated 28.03.2022 as well as the impugned Inquiry Report dated 17.06.2022.

11. As observed earlier, this Court is bound by the decision of the Division Bench of this Court dated 13.10.2017 passed in C.M.A.No.730 of 2016 in the case of ***Santon Shipping Services Vs. The Commissioner of Customs,*** wherein the Division Bench has categorically held that similar regulations applicable to Customs House Agents, viz., CHALR, 2004 are mandatory and strict timelines will have to be necessarily followed as per the said regulations.

12. The learned Single Judge in a batch of writ petitions, as observed supra, has also followed the decision rendered by the Division Bench in the case of ***Santon Shipping Services Vs. The Commissioner of Customs***, referred to supra and has quashed the show cause notice and inquiry reports on the ground that the respondents did not adhere to the timelines fixed under the CBLR, 2018.

13. For the foregoing reasons, this Court is of the considered view that the impugned show cause notice as well as the impugned inquiry report have to be quashed on the ground of non adherence to the timelines fixed under regulation 17 (5) and (7) of CBLR, 2018, which are mandatory in nature.

14. Accordingly, the impugned show cause notice dated 28.03.2022 and the impugned Inquiry Report dated 17.06.2022 are hereby quashed and these writ petitions are allowed.

21.03.2025

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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To

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Custom House, No.60, Rajaji Salai,
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2. The Inquiry Officer / Assistance Commissioner of Customs,
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ABDUL QUDDHOSE. J.,

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