IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2025

CORAM

**THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE**

**W.P. No.4580 of 2025**
**and**
**W.M.P. Nos.5099 and 5100 of 2025**

M/s.Sagotharen,
Rep. by its Partner
Mr.R. Madhu ... Petitioner

vs.

1.Deputy Commissioner of Customs,
Group-3, Import Commissionerate,
Office of the Commissioner of Customs,
Chennai – II (Import),
Custom House,
60, Rajaji Salai,
Chennai – 600 001.

2. Joint Commissioner of Customs (Gr.3),
Government of India,
Ministry of Finance,
Department of Revenue,
Office of the Commissioner of Customs,
Chennai – II,
Custom House,
60, Rajaji Salai,
Chennai – 600 001. ... Respondents

**Prayer :** Writ Petition filed under Section 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order bearing Ref. F. No.CUS/APR/ASS/483/2024-GR.3, dated 17.01.2025 quash the same and direct the second respondent to provide certified copies of the Order-in-Original No.85573 of 2021, dated 04.08.2021 and the show cause notice.

For Petitioner : Mr.T.R. Ramesh

For Respondents : Mrs. Revathi Manivannan, Senior Standing Counsel

**ORDER**

This writ petition has been filed challenging the impugned order, dated 17.01.2025 rejecting the petitioner's request for issuance of certified copies of the Order-in-Original No.85573/2021, dated 04.08.2021 and the related Show Cause Notice.

2. The petitioner has challenged the impugned Communication on the ground that he had not been served with the Order-in-Original, dated 04.08.2021 and the related Show Cause Notice. But, despite the same, arbitrarily, the 1$^{st}$ respondent has rejected the petitioner's request. According to the petitioner, he has been unable to exercise his statutory right of appeal on account of the non furnishing of the Order-in-Original, dated 04.08.2021 and the related Show Cause Notice.

3. A counter affidavit has been filed by the respondents 1 and 2 stating that only by following the procedure contemplated under Section 153 of the Customs Act, 1962, the Order-in-Original was affixed on the Notice Board on 20.09.2021 for a period of 15 days, thereby constituting valid service under Section 153(2) of the Customs Act, 1962.

4. However, the learned counsel for the petitioner would submit that despite intimating the change of address of the petitioner in the Import / Export code website, the respondents have not served the Order-in-Original to the new address of the petitioner. According to him, in view of the same, the petitioner could not exercise the statutory right of appeal.

5. After giving due consideration to the contentions of the petitioner as well as the respondents, this Court is of the considered view that no prejudice would be caused to any of the parties, if a direction is issued to the respondents to furnish a copy of the Order-in-Original, dated 04.08.2021 and the related Show Cause Notice and Corrigendum, if any, within a time frame to be fixed by this Court to enable the petitioner to file a statutory appeal under Section 128 of the Customs Act, 1962, if aggrieved by the Order-in-Original, dated 04.08.2021,

which is the subject matter of the writ petition. However with regard to the plea of limitation, this Court is not expressing its opinion. It is for the Appellate Authority to decide the same on merits and in accordance with law, after giving due consideration to the documentary evidence produced by the petitioner as according to the petitioner he was not served with the Order-in-Original, dated 04.08.2021 and the related Show Cause Notice.

6. The learned counsel for the petitioner submits that coercive steps are being taken by the respondents for recovery of the amount determined in the Order-in-Original, dated 04.08.2021.

7. For the foregoing reasons, the impugned Communication, dated 17.01.2025 issued by the 1st respondent is hereby quashed and the 1st respondent is directed to furnish a copy of the Order-in-Original, dated 04.08.2021 bearing No.85573/2021 and the related show cause and Corrigendum, if any, within a period of one week from the date of receipt of a copy of this order. The petitioner is permitted to file a statutory appeal as against the Order-in-Original bearing No.85573/2021, dated 04.08.2021, within a period of one week thereafter.

8. The respondents shall not take any coercive steps against the petitioner for a period of one week from the date of receipt of a copy of the Order-in-Original, dated 04.08.2021 bearing No.85573/2021.

9. It is made clear that this Court is not expressing any opinion on the merits of the petitioner's appeal as well as on whether the appeal is filed within time or not. On filing of the appeal, the Appellate Authority under Section 128 of the Customs Act, 1962 shall pass final orders on merits and in accordance with law, after considering the documentary evidence produced by the petitioner and shall also decide as to whether the appeal is filed within the period of limitation or not.

10. With the aforesaid directions, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

25.04.2025

Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
vsi2

**ABDUL QUDDHOSE, J.**

vsi2

To :

1.Deputy Commissioner of Customs,
Group-3, Import Commissionerate,
Office of the Commissioner of Customs,
Chennai – II (Import),
Custom House,
60, Rajaji Salai,
Chennai – 600 001.

2. Joint Commissioner of Customs (Gr.3),
Government of India,
Ministry of Finance,
Department of Revenue,
Office of the Commissioner of Customs,
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**W.P. No.4580 of 2025**

**25.04.2025**