IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 25.10.2025
Pronouncing orders on : 28.10.2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 6580 of 2024
WMP Nos. 7301 & 7304 of 2024

M/s.ICH Logistics Pvt. Ltd.,
102, No. 61, 3rd Floor, "Om Sri Sairam Plaza",
Thambu Chetty Street,
Mannady, Chennai - 600 001
Rep. By Its Director G. Girish

Petitioner(s)

Vs

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

Respondent(s)

PRAYER Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to impugned Order in Original No.104848/2024 dated 01.02.2024 passed by the respondent herein and to quash the same, to the extent of imposition of penalty of

Rs.50,000/- under Regulation 18 of CBLR, 2018, as the same is without jurisdiction and authority of law and in excess of the powers conferred with the respondent and also against the provisions of the said Regulations and also against the various judicial pronouncements.

For Petitioner(s): Mr.S.Baskaran

For Respondent(s): Mr.H.Siddarth
Junior Standing Counsel

ORDER

This writ petition has been filed challenging the impugned proceedings of the respondent dated 01.02.2024, on the ground that the said order was passed without jurisdiction and authority of law.

2.The case of the petitioner is that they are a Private Limited Company engaged in the customs clearance work. An import consignment was dealt with in the year 2021. Based on the specific intelligence gathered by SIIB, Chennai, the import consignment under Bill of Entry dated 11.10.2021 was detained on

13.10.2021 and on further examination, it was found that as against the declared cargo of 600 Bags of uncoated Calcium Carbonate, it was found to contain 400 bags of Poppy Seeds which was concealed along with the declared goods.

3.The goods were seized under Section 110 of the Customs Act through Seizure Memo dated 01.11.2021. In the course of investigation, statements of various persons were recorded including the petitioner who acted as customs broker, in filing Bill of Entry for the importer.

4.The respondent issued a Show Cause Notice under Regulation 17 of Customs Brokers Licensing Regulations, 2018, (In short, CBLR, 2018) dated 10.08.2023, calling upon the petitioner to submit their statement of defence before the Inquiry Officer appointed for the said purpose and as to why the customs broker license should not be revoked, security deposit should not be forfeited and penalty should not be imposed against the petitioner under the relevant Regulations under CBLR, 2018.

5.The Customs also issued a Show Cause Notice dated 27.04.2023 under Section 124 of the Customs Act calling upon the importer as to why the value of the goods should not be redetermined and confiscated and also for imposition of penalty under the Customs Act. Such Show Cause Notice was issued to the petitioner also to show cause as to why the penalty should not be imposed against the petitioner under the relevant provisions of the Customs Act.

6.The petitioner submitted their written statement of defence on 06.11.2023 to the Inquiry Officer at Export Commissionerate, Customs House, Chennai. The petitioner denied all the allegations made and also raised legal grounds.

7.The Inquiry Officer through report dated 08.11.2023, concluded that the petitioner had violated Regulations 10(a),(d),(e) and (n) of CBLR, 2018, so as to justify the revocation of the license and forfeiture of the security deposit and for imposition of penalty under the relevant Regulations.

8.The petitioner gave a report dated 20.12.2023 to the respondent to the effect that the Inquiry Officer did not properly appreciate the grounds raised by the petitioner and the judgements that were relied upon. The respondent gave personal hearing to the petitioner. Through the impugned proceedings dated 01.02.2024, the respondent imposed a penalty of Rs.50,000/- under Regulation 18 of CBLR, 2018, but however, refrained from the revocation of license and forfeiture of the security deposit. Aggrieved by the same, the present writ petition has been filed before this Court.

9.The learned counsel for the petitioner primarily raised two grounds against the impugned proceedings of the respondent dated 01.02.2024. The first ground is that the import was done in the year 2021 and the investigation was completed by SIIB in the year 2022. The Show Cause Notice was issued by the Chennai Customs on 27.04.2023, only upon receiving the report from SIIB. A copy of the Show Cause Notice has been forwarded to the Additional Commissioner of Customs, Commissionerate VIII, Chennai Customs. However, the impugned Show Cause Notice was dated 10.08.2023, which is beyond the period of ninety days mandated under Regulation 17. In view of the same, the subsequent order passed is non est in the eye of law. The second ground raised by the learned counsel for the petitioner is that the respondent in the counter affidavit has taken a stand that they became aware of the Show Cause Notice dated 27.04.2023 only on 15.05.2023 and hence, the Show Cause Notice issued to the petitioner on 10.08.2023, is within ninety days. Such date has been artificially brought in to get over the mandate under Regulation 17. On a demurrer, even if it is taken to be true, there is absolutely no indication as to when the Offence Report was received by the respondent. If the date of the offence report is not available, the copy marked to the respondent when the Show Cause Notice dated 27.04.2023 was forwarded, must be taken to be the relevant date and therefore, the Show Cause Notice issued by the respondent on 10.08.2023, is well beyond ninety days.

10.The learned counsel for the petitioner to substantiate his submission, relied upon the judgement of this Court in ***A.M.Ahamed & Co., vs. Commissioner of Customs (Imports), Chennai*** reported in ***2014 (309) E.L.T.***

433 (Mad). The learned counsel also relied upon the order passed in W.P.No.27243 of 2025 dated 18.09.2025.

11.The respondent has filed a counter affidavit. The respondent has taken a stand that the petitioner's statement was recorded on 14.10.2021 during investigation, under Section 108 of the Customs Act and they admitted that they filed the Bill of Entry without verifying the importer credentials. Hence, the petitioner failed to comply with the obligations under the relevant Regulations of CBLR, 2018. Accordingly, the Additional Commissioner of Customs, Chennai-II Commissionerate issued Show Cause Notice dated 27.04.2023, under Section 124 of the Customs Act. The respondent received the copy of the Show Cause Notice only on 15.05.2023. This communication was treated as the Offence Report under Regulation 17(1) of CBLR, 2018. Thereafter, Show Cause Notice was issued to the petitioner on 10.08.2023 within ninety days from the date of receipt of the Offence Report. Thereafter, Inquiry Officer was appointed and he conducted a detailed inquiry and sufficient opportunity was provided to the petitioner and a report was submitted. Based on the same, the adjudicating authority after considering the Inquiry Report and the submissions of the petitioner passed the impugned order dated 01.02.2024, imposing a penalty of Rs.50,000/- under Regulation 18.

12.The respondent has also taken a stand that the petitioner has an alternative remedy of filing an appeal before CESTAT and he cannot maintain a writ petition before this Court. Accordingly, the respondent has sought for the dismissal of this writ petition.

13.This writ petition has been filed mainly on the ground that the impugned order passed by the respondent is without jurisdiction and authority of law. If this ground is able to be sustained by the petitioner, the availability of an alternative remedy of appeal cannot be a bar to maintain the writ petition.

14.In view of the above, this Court must see if the Show Cause Notice issued by the respondent on 10.08.2023 is beyond the period of ninety days and if so, it vitiates the Show Cause Notice and also the subsequent order passed by the respondent.

15.The import had taken place in the year 2021 and in fact, the statement of the petitioner was also recorded on 14.10.2021, in the course of investigation by SIIB, Chennai. The Additional Commissioner of Customs, Group I, Chennai II Commissionerate, issued Show Cause Notice dated 27.04.2023 under Section 124 of the Customs Act. A copy of the Show Cause Notice was also forwarded to the Additional Commissioner of Customs, CBS, Commissionerate VIII, Chennai Customs. Thereafter, the respondent issued Show Cause Notice dated 10.08.2023 to the petitioner.

16.The primary ground raised by the petitioner is that this Show Cause Notice dated 10.08.2023 is beyond the period of ninety days from the date of receipt of the Offence Report which in this case is the earlier Show Cause Notice dated 27.04.2023.

17.The respondent has taken a stand in the counter affidavit that the Show Cause Notice dated 27.04.2023 was received in the office of the respondent only on 15.05.2023.Thereafter, the Show Cause Notice was issued by the respondent on 10.08.2023, which is well within ninety days. To substantiate this stand, the relevant document was also filed by way of typed set where the seal is available reflecting the date as 15.05.2023.

18.The learned counsel for the petitioner submitted that the seal affixed to the Show Cause Notice dated 27.04.2023 is artificial and it has been done only to overcome the mandate of ninety days period fixed under Regulation 17(1) of CBLR, 2018.

19.The seal that has been affixed in the Show Cause Notice dated 27.04.2023, is an official act performed by the concerned office and all official acts must be presumed to be correct, unless proven otherwise. Hence, the seal that has been affixed in the Show Cause Notice dated 27.04.2023, cannot be doubted merely on the suspicion raised by the learned counsel for the petitioner. In other words, this Court cannot disregard the seal that has been affixed on a mere *ipse dixit* of the petitioner.

20.The next issue is as to whether the Show Cause Notice was issued within ninety days from the date of receipt of the Offence Report.

21.For this purpose, Regulation 17 has a lot of significance. As per Regulation 17(5) of the CBLR, 2018, the report has to be submitted within a period of ninety days from the date of issuance of notice under Sub Regulation 1. It has been held to be mandatory and if this period is crossed, the proceeding itself will stand vitiated. I had an occasion to deal with this issue in W.P.No.27243 of 2025 dated 18.09.2025 and it was held that the Show Cause Notice issued beyond the period of ninety days from the date of Offence Report will vitiate the subsequent order passed by the concerned authority. This judgement was rendered after considering all the earlier judgements on the same issue.

22.Be that as it may, the crucial issue is as to when the Offence Report was received in order to calculate the ninety days period.

23.For this purpose, useful reference can be made to the judgement of this Court in ***A.M.Ahamed*** case referred *supra*. The relevant portions are extracted hereunder:

> *14. Under sub-regulation (1) of Regulation 22, the Commissioner of Customs should issue a notice in writing to the Customs House Agents within 90 days from the date of receipt of offence report. There is no dispute on the question of law that if a notice in writing is not issued within 90 days from the date of receipt of offence report, the proceedings under Section 22(1) will stand vitiated. But in the case on hand, there is a dispute about two things namely, (1) as to what an offence report is; and (2) as to how to calculate the period of 90 days prescribed in Regulation 22(1).*
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> *15. According to the petitioner, the Department of Revenue Intelligence investigated into the alleged incident and issued a show cause notice on 18-5-2010. This show cause notice was allegedly sent to the Chennai Commissionerate also and hence the issuance of the show cause notice by DRI has to be taken as the date of receipt of the offence report. Alternatively, it is contended*

by the petitioner that at least the date of the Order-in-Original namely 31-1-2011 imposing penalty could have been taken as the date of receipt of offence report, since the same was also communicated to the Chennai Commissionerate. The first respondent has calculated the period of 90 days only from the date of receipt of the prohibition order issued by the Commissioner of Customs, Tuticorin on 6-9-2012. This, according to the petitioner, will not satisfy the requirement of Regulation 22.

16. The respondents have filed a counter affidavit. In the counter affidavit, it is claimed by the respondents that the petitioner was granted licence by the Chennai Customs and that they were operating in Tuticorin Customs. According to the respondents, the Commissioner of Customs, Tuticorin forwarded the case of the petitioner to the Commissioner of Customs at Chennai only by a letter dated 6-9-2012 and hence based upon the same, a show cause notice was issued on 12-11-2012 within the period of 90 days prescribed in sub-regulation (1) of Regulation 22. In the counter affidavit, the respondents have not chosen to deny the averments of the petitioner in ground No. (b) of Para 16 of the affidavit that the show cause notice dated 18-5-2010 issued by the DRI and the Order-in-Original dated 31-1-2011 passed by the Additional Commissioner, Tuticorin were all marked to the

Chennai Commissionerate and that the Chennai Commissionerate had knowledge about the same.

17. Unfortunately, the Regulations do not define what an offence report is and the Regulations do not even state as to how an offence report is to be sent. The Regulations do not even use the expression "offence report" anywhere else other than Regulation 22(1). Even the grounds on which a licence can be revoked or suspended, mentioned in Regulation 20(1), do not include the definition of the expression offence or offence report. There are only three grounds on which a licence can be suspended or revoked under sub-regulation (1) of Regulation 20. Regulation 20(1) reads as follows:-

> *"20. Suspension or revocation of licence. - (1) The Commissioner of Customs may, subject to the provisions of regulation 22, revoke the licence of a Customs House Agent and order for forfeiture of part or whole of security, or only order forfeiture of part or whole of security, on any of the following grounds, namely:-*
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> *(a) failure of the Customs House Agent to comply with*

any of the conditions of the bond executed by him under regulation 10;

(b) failure of the Customs House Agent to comply with any of the provisions of these regulations, within the jurisdiction of the said Commissioner of Customs or anywhere else;

(c) any misconduct on his part, whether within the jurisdiction of the said Commissioner of Customs or anywhere else which in the opinion of the Commissioner renders him unfit to transact any business in the Customs Station."

18. The above regulation has only 3 ingredients namely (i) failure to comply with the bond conditions, (ii) failure to comply with the regulations and (iii) a misconduct, for any of which, the licence can be revoked. Since the above regulation does not use the expression "offence report", we have to presume that a report indicating the availability of any one of the above 3 ingredients should be construed as an offence report. Consequently, the date of knowledge gained by the Commissioner, by means of any communication, be it show cause notice or order-in-original, has *to be construed as the date of receipt of the offence report. Otherwise, a report about anyone of the above 3 ingredients can be sent at any time, even after five years or ten years.*

19. The Regulations not only fail to prescribe what an offence report is and how it is to be sent, but they do not also prescribe the person competent to send it. In such circumstances, the interpretation sought to be given by the petitioner is more acceptable.

20. The time limit prescribed in Regulation 22(1) has to be understood in the context of the strict time schedule prescribed in various portions of the Regulations. Regulation 20(2), for instance, entitles the Commissioner, to suspend the licence of an agent, in appropriate cases where immediate action is necessary. Regulation 22(3) prescribes a time limit of 15 days. Regulation 22(1) prescribes a time limit within which action is to be initiated. It also prescribes the time limit under Regulation 22(5). Therefore, considering the fact that the whole proceedings are to be commenced within a time limit and also concluded within a time frame, I am of the view that the show cause notice issued to the petitioner on 8-5-2010 with a copy marked to the first respondent should be taken as the date of receipt of the offence report.

Consequently, the period of 90 days should commence only from that date. If so calculated, the impugned proceedings have obviously been initiated beyond the period of 90 days.

24.In the above judgement, this Court considered the meaning of the term 'Offence Report' and how to calculate the period of ninety days from the date of Offence Report.

25.This Court held that the Regulations do not even use the expression 'Offence Report' anywhere else other than Regulation 22(1). Hence, it was concluded that a report indicating the availability of any of the three ingredients under Regulation 20(1) should be construed as an Offence Report. Consequently, this Court held that the date of knowledge gained by the Commissioner by means of any communication, be it a Show Cause Notice or order in original, has to be construed as the date of receipt of the Offence Report. In that case, the date of the Show Cause Notice with a copy marked to the concerned authority was taken as the date of receipt of the Offence Report. Consequently, the period of ninety days was calculated from that date.

26.The above ratio can be applied to the present case. Since there is no indication as to when the Offence Report was received by the respondent, the date of the Show Cause Notice issued to the petitioner ie., the Show Cause Notice dated 27.04.2023 must be taken as the date of Offence Report. The respondent had the knowledge of this Show Cause Notice on 15.05.2023. Hence, the ninety days period must be calculated from 15.05.2023, if that is so, the Show Cause Notice issued by the respondent dated 10.08.2023, is well within ninety days. Consequently, it does not stand vitiated under Regulation 17.

27.The impugned order has been passed by the respondent after affording an opportunity to the petitioner and by assigning proper reasons. Therefore, the same is not liable to be interfered by this Court. Such order has been passed well within the jurisdiction of the respondent. In such an event, the petitioner has to necessarily avail the alternative remedy of appeal before the CESTAT.

28.In the light of the above discussion, this writ petition stands dismissed and it is left open to the petitioner to file the appeal against the order dated 01.02.2024, passed by the respondent under Section 129A(1) of the Customs Act before the CESTAT. The time spent before this Court during the pendency of this writ petition shall be taken into account and if any such appeal is filed by the petitioner, it shall be entertained and dealt with on merits and in accordance with law provided that the petitioner files the appeal, within a period of two weeks from the date of receipt of copy of this order. If the appeal is not filed within the time frame fixed by this Court, the order dated 01.02.2024, passed by the respondent will become final. No Costs. Consequently, connected miscellaneous petitions are closed.

28-10-2025

Index:Yes
Speaking order
Internet:Yes
Neutral Citation:Yes
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To

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

N.ANAND VENKATESH J.

ssr

WP No. 6580 of 2024

28-10-2025