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W.P.No.13269 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2025

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.13269 of 2025
and
W.M.P.Nos.14847 and 14848 of 2025

M/s.Perfect Engineers and Consultancy
Pvt. Ltd. Rep. by its Director
S. Ashok Kumar,
New No.134, Old No.264,
Thamby Chetty Street,
Near Mallikeswarar Temple,
Parrys, Chennai - 600 001.

... Petitioner

Vs.

The Commissioner of Customs (Import),
Chennai II Commissionerate,
Customs House,
60, Rajaji Street,
Chennai - 600 001.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue an order in the nature of writ of certiorari, calling for the records in and connected with the impugned decision dated 28.03.2025 in F.No.CUS/AG/PN/17/2023-A/M, quash the same.



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For Petitioner : Mr.P. Satish Sundar

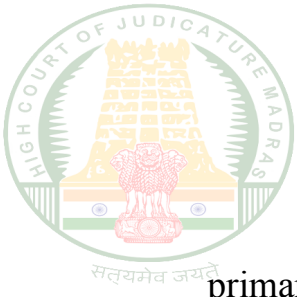
For Respondent : Mr. S. R. Sundar
Senior Standing Counsel

ORDER

This writ petition has been filed, challenging the impugned order dated 28.03.2025 under which the petitioner's empanelment as a Chartered Engineer has been withdrawn with immediate effect by the respondent. According to the petitioner, the impugned order has been passed arbitrarily for the following reasons:

a)Even though the petitioner had waived the Show Cause Notice, they have not been granted an opportunity to defend the allegations levelled against them by the respondent, who has passed the impugned order arbitrarily, without granting an opportunity of hearing to the petitioner;

b)The respondent has not followed the due procedure established under law before passing the impugned order;



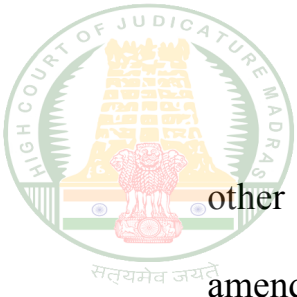
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c) The impugned decision has serious civil consequences as the primary source of work for the petitioner is rendering Chartered Engineer's service in valuation of the import/export of goods. Therefore the right of livelihood of the petitioner has been affected by the passing of the impugned order;

d) The petitioner cannot be made liable for the fault committed by the importer / exporter for whom the petitioner had acted as a Chartered Engineer.

2. This matter came up for admission on 15.04.2025. The learned standing counsel appeared on behalf of the respondent had sought time to get instructions. Thereafter, the matter has been adjourned for hearing. The learned standing counsel appearing for the respondent on instructions would submit the following:

The second hand scrap sets were not declared by the importer in the Bill of Entry. The valuer has accepted that he has failed to notice those machines. The imported goods are in violation of CBIC instructions dated 05.04.2024 and the imported goods are also in violation of hazardous and



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other wastes (Management and Transboundary Movement), as per the 2nd amendment Rules, 2016. The perfunctory approach was on the part of the petitioner.

3. However, the learned counsel for the petitioner disputes the contention of the respondent. He would also submit that the petitioner has been called upon by the respondent on 15.04.2025. He would submit that the petitioner has also cooperated with the enquiry conducted by the respondent pertaining to the imports on account of which the petitioner's service as a Chartered Engineer has been withdrawn.

4. Admittedly, the respondent before passing the impugned communication had not given an opportunity of hearing to the petitioner. The impugned decision certainly will result in serious civil consequences as the primary source of work for the petitioner is rendering Chartered Engineer's service in the valuation of import / export of goods. Therefore, the right of livelihood of the petitioner has been affected by the passing of the impugned communication.



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5. The petitioner has also categorically contended before this Court that they have not committed any violation as claimed by the respondent. He also contends that as a Chartered Engineer, he cannot be made liable for the fault committed by the importer / exporter for whom the petitioner had acted as a Chartered Engineer. Unless and until, the petitioner is given an opportunity of hearing with regard to the contentions made by them before this Court, the truth cannot be unearthed with regard to the allegations levelled by the respondent against the petitioner, which has been extracted supra in this order.

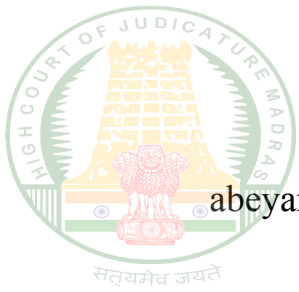
6. Certainly, as a Chartered Engineer empanelled with the respondent, the impugned communication under which the petitioner's empanelment as Chartered Engineer has been withdrawn with immediate effect by the respondent, will affect the right of livelihood of the petitioner. Therefore, the respondent ought to have been granted an opportunity of hearing to the petitioner before issuing the impugned communication, withdrawing with immediate effect, the petitioner's empanelment as a Chartered Engineer.



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7. For the foregoing reasons, this Court is of the considered view that the impugned communication has to be quashed to enable the petitioner to participate in the enquiry and to enable the respondent to unearth the truth after providing an opportunity of hearing to the petitioner with regard to the contentions that have been raised in this writ petition and till final orders are passed, necessarily the impugned communication has to be kept in abeyance to protect the interest of the petitioner in case it is found at a later date that the petitioner has not committed any violation as contended by the respondent before this Court.

8. For the foregoing reasons, the impugned communication dated 28.03.2025 under which the petitioner's empanelment as a Chartered Engineer has been withdrawn with immediate effect by the respondent, is quashed by directing the respondent to complete the enquiry within a period of four weeks from the date of receipt of a copy of this order and pass final orders thereafter, by providing an opportunity of hearing to the petitioner and by adhering to the principles of natural justice. Till final orders are passed, the impugned communication dated 28.03.2025 shall be kept in



abeyance.

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9. With the aforesaid directions, this writ petition is disposed of. No

Costs. Consequently, connected miscellaneous petitions are closed.

23.04.2025

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

The Commissioner of Customs (Import),
Chennai II Commissionerate,
Customs House,
60, Rajaji Street,
Chennai - 600 001.



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ABDUL QUDDHOSE. J.,

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