IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2025

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P. No.18691 of 2025

T.A.M.Athavan .. Petitioner

vs.

1.The Commissioner of Customs,
(Sea Port - Import),
Min. of Finance, Department of Revenue,
O/o of the Commissioner of Customs,
Customs House,
New No.Rajaji Salai,
Chennai - 600 001.

2.A.J. D' Cruz & Sons,
rep. by its Managing partner A.J. D'Cruz .. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the final order passed by the Customs Excise and Service Tax Appellate Tribunal in Customs Appeal No.40745/2015 dated 14.08.2024 and quash the same as illegal.

For Petitioner : Mr.S.P.S.Nithyan

For Respondents : Mr.G.Meganathan,
Senior Standing Counsel

ORDER

This writ petition has been filed, challenging the impugned order dated 14.08.2024 passed by the Customs Excise and Service Tax Appellate Tribunal in Customs Appeal No.40745 of 2015.

2.Under the impugned order, the Appellate Tribunal has dismissed the appeal filed by the petitioner on the ground that the appellant is not a party to the proceedings and he cannot be considered as an aggrieved person to file an appeal before the Tribunal. The Appellate Tribunal has also observed, while dismissing the appeal that the petitioner is not even a co-noticee. The Appellate Tribunal has also observed that merely because investigation was initiated based on the complaint given by the petitioner, it cannot be said that the petitioner is a person aggrieved by the order of the Original Authority. By giving the aforesaid findings, the Appellate Tribunal has held that the appellant has got no locus standi to file the appeal. Based on a complaint lodged by the petitioner against the second respondent with regard to the alleged forgery committed by the second respondent in respect of the shipping bills, the complaint was investigated and an order in original dated 28.08.2009 came to be passed by the Commissioner of Customs, (Seaport - Import) absolving the second respondent (Customs House Agent) by letting off the second respondent with severe warning. While lodging the complaint against the second respondent for the alleged forgery of shipping bills, the petitioner in his complaint has not stated under what provisions of the Customs Act, the complaint was lodged against the second respondent (Customs House Agent).

3.Admittedly, the petitioner and the persons managing the second respondent's affairs are relatives and they have some personal rivalry amongst themselves. The Customs Act has been legislated only to prevent any violation of the provisions of the Customs Act.

4.In the case on hand, as seen from the complaint that too, when the original authority while passing the order in original, has let off the second respondent with severe warning, after acting upon the complaint given by the petitioner, the remedy if at all available to the petitioner is to lodge a criminal complaint against the second respondent and its representatives for the alleged forgery of the shipping bills or to file a civil suit seeking for damages for causing disrepute to the petitioner's reputation in the manner known to the petitioner under law. Aggrieved by the order of the Commissioner of Customs (Sea Port - Import) (Order in original) dated 28.08.2009, the petitioner has preferred an appeal before the Customs Excise and Service Tax Appellate Tribunal (CESTAT), Chennai. While dismissing the appeal, the Appellate Tribunal has rightly held that when the appellant (petitioner herein) is not a party to the proceedings, he cannot be considered as an aggrieved person to file an appeal before the Tribunal.

5.Admittedly, the petitioner herein is not a party to the original proceedings and he is not even a co-noticee. Admittedly, no adverse order has been passed against the petitioner in the original proceedings, namely, the order in original dated 28.08.2009 passed by the Commissioner of Customs (Sea Port - Import). The Appellate Tribunal in the impugned order has rightly held that merely because investigation was initiated on the basis of the petitioner's complaint, it cannot be considered that the petitioner is aggrieved by such an order and has come to the right conclusion that the petitioner has no locus standi to file the appeal. There is no infirmity in the findings of the Appellate Tribunal.

6.Though the learned counsel for the petitioner would submit that he was not granted an opportunity to represent his case before the Appellate Tribunal, this Court is of the considered view that even if an opportunity is given, the same conclusion as rendered by the Appellate Tribunal will have to follow. No useful purpose will be served if the matter is remanded back to the Appellate Tribunal and therefore, the request of the learned counsel for the petitioner has to be rejected.

7.Learned counsel for the petitioner is also unable to point out to this Court as to what provisions under the Customs Act, the complaint was lodged against the second respondent. When the Commissioner of Customs (Sea Port - Import) in his order in original dated 28.08.2009, after giving due consideration to the findings of the investigation, passed an order letting off the second respondent (Customs House Agent) with severe warning and the petitioner, who is not a party to the said proceedings, the question of interfering with the order of the Appellate Tribunal by this Court under Article 226 of the Constitution of India does not arise.

ABDUL QUDDHOSE, J.

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8.This Court does not find any infirmity in the order passed by the Appellate Tribunal. Accordingly, this writ petition is dismissed. If the petitioner is aggrieved by the conduct of the second respondent and its partners/representatives, he has to redresses his grievance either by lodging a criminal complaint or through the Civil Court against them and liberty is granted for the petitioner to file the same. No costs.

03.06.2025

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To

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