IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2025

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P. No. 19966 of 2025
and
W.M.P. Nos. 22516 and 22518 of 2025

M/s.K.P.Trade Links
IEC N: 1013007913
Represented by its Managing Partner Shaji K.P.
2/228, Nadackal Post, Erattupetta
Kottayam, Kerala – 686 121. ... Petitioner

Vs.

The Deputy Commissioner of Customs
Drawback – AIR, Chennai – VII
New Customs House, Meenambakkam
Chennai-600027. ... Respondent

Prayer : This writ petition has been filed under Article 226 of the Constitution of India praying for issuance of Certiorari, call for the records pertaining to the impugned order-in-original No.1228/2023-AIR dated 15.09.2023 issued by the sole respondent and quash the same.

For Petitioner : Mr.G.Derrick Sam

For Respondents : Mr.J.Vasu, JPC

ORDER

This writ petition has been filed challenging the impugned order-in-original dated 15.09.2023, by which the respondent had directed the petitioner to pay the Duty Drawback amount of Rs.15,81,568/- against Shipping Bills along with the applicable interest.

2. The impugned order came to be passed on the ground that the petitioner did not submit Bank Realization Certificates for the subject Shipping Bills. The impugned order is an exparte order. The petitioner contends that they never received any show cause notice, and that they also did not receive personal hearing notices prior to the passing of the impugned order-in-original.

3. According to the petitioner, as seen from the impugned order-in-original, all notices were sent by the respondent to the old address of the petitioner. The petitioner has also placed on record their new address, which is confirmed through the Registration Certificate issued by the DGFT, which discloses a different address than the one disclosed in the impugned order-in-original.

4. The petitioner has categorically contended that they are in possession of all the Bank Realization Certificates [BRCs] for the subject Shipping Bills and if

the same are produced and considered by the respondent, the petitioner will not liable to pay the Duty Drawback amount as well as the interest as determined under the impugned order in original. The petitioner has therefore filed this writ petition on the ground of violation of principles of natural justice.

5. A counter-affidavit has been filed by the respondent before this Court, wherein they have contended that by only following the due procedure established under Law by serving notices on the petitioner, the impugned order-in-original came to be passed. According to them, several opportunities were granted to the petitioner through the personal hearings notices dated 05.03.2022, 06.05.2023 and 18.05.2023, but they have admitted that those personal hearings notices were returned with the endorsement as 'undelivered'.

6. Therefore, it is clear that the petitioner was not aware of the issuance of the personal hearings notices by the respondent and did not receive the same. Even though the respondent has pasted personal hearings notices in their office notice board for a period of 15 days, that will not suffice for the purpose of actually serving the notices on the petitioner. It is clear from the statements made by the respondent through their counter-affidavit that the petitioner did not receive the show cause notice, and did not receive the personal hearings notices and also

did not receive the impugned order-in-original, as the said notices were sent only to the old address of the petitioner. Though in the subject Shipping Bills, the said address is disclosed, the petitioner has placed on record before this Court, as seen from the Certificate issued by the Director General of Foreign Trade [DGFT] that the present address of the petitioner is different from the one to which all the notices were sent by the respondent. The respondent has also sent the impugned order-in-original only to the old address of the petitioner.

7. The petitioner categorically contends that they are not liable to pay the Duty Drawback amount as stipulated in the impugned order and that they are in possession of all the Bank Realization Certificates [BRCs] pertaining to the subject Shipping Bills. Therefore, the petitioner must be given with an opportunity to place all documents before the respondent when it is made clear that they never received the show cause notice, personal hearing notices issued by the respondent in respect of the impugned proceedings, which culminated in the passing of the impugned order-in-original. The impugned order-in-original was also not served on the petitioner, since the same has been addressed to the old address of the petitioner. In view of the violation of principles of natural justice and to enable the petitioner to put forward their defenses, they must be granted another opportunity by the respondent.

8. Accordingly, the impugned order-in-original dated 15.09.2023 is hereby quashed and the writ petition is allowed by remanding the matter back to the respondent for fresh consideration on merits and in accordance with law by adhering to the principles of natural justice and by affording personal hearing to the petitioner and also permitting the petitioner to submit explanation along with supporting documents with regard to the Duty Drawback claims made by the respondent pertaining to the subject Shipping Bills. The respondent is directed to pass final orders within a period of twelve(12) weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed. No costs.

18.07.2025

Index: Yes/No
Internet: Yes/No
Speaking /Non-speaking order
NCC : Yes / No

Maya

ABDUL QUDDHOSE,J.

Maya

To

The Deputy Commissioner of Customs
Drawback – AIR, Chennai – VII
New Customs House, Meenambakkam
Chennai-600027.

W.P. No. 19966 of 2025

Dated : 18.07.2025