IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.12.2025
Coram
The Honourable **Mr.Justice Abdul Quddhose**

W.P.No.21819 of 2024
and
W.M.P.No.23806 of 2024

M/S.MAHENDRA KIRAN INC
D.B. LINGAPPA BUILDING, 1ST FLOOR
244 OLD THARAGUPET MAIN ROAD
BENGALURU 560 53
REPRESENTED BY ITS KARTA
MR. MOOLCHAND PUKHRAJ ...Petitioner

Vs.

THE ASSISTANT COMMISSIONER OF CUSTOMS (BRC - DBK)
OFFICE OF THE COMMISSIONER OF CUSTOMS
CHENNAI II CUSTOMS COMMISSIONERATE
CUSTOM HOUSE 60, RAJAJI SALAI, CHENNAI 600 001.
...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records pertaining to the impugned ex-parte order in original No.107312/2024 dated 12.06.2024 passed by the respondent herein and to quash the same for having been passed contrary to law and in gross violation of the principles of natural justice

For Petitioner : Mr.N.Viswanathan
For Respondent : Mr.G.Meganathan
Junior Standing Counsel

Order

This Writ Petition has been filed challenging the Order-in-Original dated 12.06.2024 passed by the respondent confirming the demand for recovery of duty drawback amount of Rs.22,10,416/- from the petitioner in respect of 41 shipping bills, as detailed in the said order under Rule 16 A of the Customs and Central Excise Duties Drawback Rules, 1995 along with applicable interest under Section 75 A (2) of the Customs Act, 1962. The respondent also imposed penalty of Rs.1,00,000/- on the petitioner under Section 117 of the Customs Act, 1962.

2. The petitioner has challenged the Order-in-Original on the ground of violation of principles of natural justice, as the impugned order is an ex parte order.

3. The petitioner contends that despite the fact that the petitioner has produced all the Bank Realization Certificates for the subject exports pertaining to 41 shipping bills, the impugned recovery order has been passed demanding recovery of duty drawback amounting to Rs.22,10,416/-, which, according to the petitioner, is arbitrary and illegal. The petitioner further contends that the reply sent by the petitioner to the show cause notice has not been considered in the impugned Order-in-Original.

4. A counter affidavit has been filed by the respondent, wherein, they have stated that three personal hearing opportunities were afforded to the petitioner, but, despite the same, the petitioner chose not to appear on the dates mentioned in the personal hearing notices. According to them, sufficient opportunities were granted to the petitioner and only thereafter, the impugned Order-in-Original came to be passed. Therefore, according to the respondent, there is no violation of principles of natural justice.

5. Heard Mr.N.Viswanathan, the learned counsel for the petitioner and Mr.G.Meganathan, learned Junior Standing Counsel for the respondent and perused the materials placed on record.

6. The following are the undisputed facts:-

a) The petitioner did not choose to attend the personal hearing afforded by the respondent. The fact that personal hearing notices were sent to the petitioner are not disputed by the petitioner, as seen from the documents filed along with this Writ Petition. The petitioner through their e-mail has requested the respondent to give further time for producing the Bank Realisation Certificates, Chartered Accountant's Statement, etc., for the subject shipping bills. However, despite sufficient time and opportunities having been granted, this Court finds that the said documents were not furnished to the respondents. This Court is not expressing any opinion on the same. Only on the ground that the petitioner did not choose to appear before the respondent on the personal hearing dates afforded to the petitioner through three personal hearing notices issued by the respondent, this Court is not interfering with the impugned order.

b) Though the petitioner failed to attend the personal hearing, the petitioner, alteast, ought to have sent a reply to the respondent requesting them for another suitable date for personal appearance. Admittedly, the said exercise was not done by the petitioner, as seen from the documents filed along with this Writ Petition. The said fact is also not disputed by the learned counsel for the petitioner during the course of his submission.

c) If the petitioner is aggrieved by the impugned Order-in-Original, they are also having an alternate statutory remedy of filing an Appeal before the Commissioner of Customs (Appeals).

7. This Court, in view of the fact that the petitioner chose not to attend the personal hearing dates afforded by the respondent on three occasions and the petitioner, having not submitted the documents, despite specific request having been made by the petitioner through one of their e-mails seeking time to furnish those documents, this Court is not inclined to interfere with the impugned Order-in-Original, as, in the opinion of this Court, principles of natural justice has not been violated by the respondent. However, this Court, in the interest of justice, to enable the petitioner to seek alternate statutory remedy, is inclined to direct the petitioner to file an Appeal against the impugned order before the Commissioner of Customs (Appeals), the Competent Authority, to challenge the impugned Order-in-Original within a time frame to be fixed by this Court, that too, because, the petitioner is having the benefit of an interim stay of the operation of the impugned Order-in-Original in this Writ Petition till date.

8. For the foregoing reasons, this Writ Petition is disposed of by directing the petitioner to file an Appeal as against the impugned Order-in Original dated 12.06.2024 before the Commissioner of Customs (Appeals) (Appellate Authority/Competent Authority) within a period of 30 days from the date of receipt of a copy of this order by making the necessary mandatory pre-deposit. On such Appeal being filed by the petitioner within the stipulated time fixed by this Court, the Commissioner of Customs (Appeals) shall entertain the same and pass final orders on merits and in accordance with law within a period of six months thereafter. It is made clear that till final orders are passed by the Commissioner of Customs (Appeals), no coercive steps shall be taken against the petitioner for execution of the impugned Order-in-Original. No costs. Consequently, connected Miscellaneous Petition is closed.

11.12.2025

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Index : yes/no
Neutral Citation : yes/no

To
THE ASSISTANT COMMISSIONER OF CUSTOMS (BRC - DBK)
OFFICE OF THE COMMISSIONER OF CUSTOMS
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CUSTOM HOUSE 60, RAJAJI SALAI, CHENNAI 600 001.

Abdul Quddhose,J.,

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