



W.P.Nos.1293 & 1296 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 26.06.2025

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

W.P.Nos.1293 & 1296 of 2023

AND

W.M.P.Nos.1330 & 1338 of 2023

M/s.Allwyn Tex
Rep. by its Proprietor
K.Vinayagamoorthy
No.10, Muthusami Street
Odakkadu
Tiruppur 641 602
(Earlier at No.46, Teachers Colony, 3rd Street
Angeripalayam Road, Tiruppur 641 602)

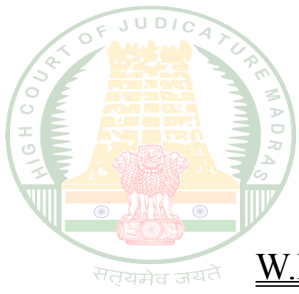
.. Petitioner in both WPs

Vs.

1.Appellate Authority &
Zonal Additional Director General of Foreign Trade
O/o.The Zonal Additional Director General of Foreign Trade
No.26, Haddow Road, 4th Floor, Shastri Bhavan Annexe
Chennai 600 006

2.Deputy Director General of Foreign Trade
O/o.The Joint Director General of Foreign Trade
1544, India Life Building (Annexe)
I Floor, Trichy Road
Coimbatore 641 018

.. Respondents in both WPs



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W.P.No.1293 of 2023 : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records of the impugned order-in-appeal F.No.04/95/A(39),(38)/Addl.DGFT/ECA/AM20 dated 11.03.2020 passed by the 1st respondent and its order-in-original No.32/21/021/01730/AM 06 dated 21.07.2016 of the 2nd respondent in respect of EPCG License No.3230006278 dated 01.03.2006 quash the same and further direct the 2nd respondent to grant redemption certificate in favour of the petitioner after taken into consideration of petitioner's application in FORM ANF-5B (Statement of Export for Redemption of EPCG) on or before the appointed date as fixed by this Court.

W.P.No.1296 of 2023 : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records of the impugned order-in-appeal F.No.04/95/A(39),(38)/Addl.DGFT/ECA/AM20 dated 11.03.2020 passed by the 1st respondent and its order-in-original No.32/21/021/01509/AM 06 dated 21.07.2016 of the 2nd respondent in respect of EPCG License No.3230006278 dated 01.03.2006 quash the same and further direct the 2nd respondent to grant redemption certificate in favour of the petitioner after taken into consideration of petitioner's application in FORM ANF-5B (Statement of Export for Redemption of EPCG) on or before the appointed date as fixed by this Court.

For Petitioner : Mr.R.Anish Kumar
in both WPs

For Respondents : Mr.AR.L.Sundaresan, Additional Solicitor General
in both WPs Assisted by Mr.V.Ashok Kumar, Senior Panel Counsel



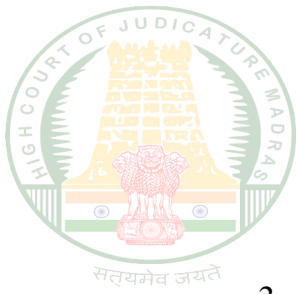
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COMMON ORDER

These writ petitions have been filed challenging the proceedings of the 1st respondent dated 11.03.2020 and the original proceedings of the 2nd respondent dated 21.07.2016 and for a consequential direction to the 2nd respondent to grant Redemption Certificate in favour of the petitioner, after taking into consideration the applications submitted by the petitioner in FORM ANF-5B.

2. The case of the petitioner is that they had obtained EPCG license from the office of the Director General of Foreign Trade (DGFT), Coimbatore, under the EPCG Scheme. Two licenses were obtained and the petitioner was expected to fulfill the export obligation within a period of eight years from the date of license. One license was granted for duty saved value to the tune of Rs.2,02,376/- and the other was given for the duty saved value of Rs.27,75,884.81, for import of capital goods.

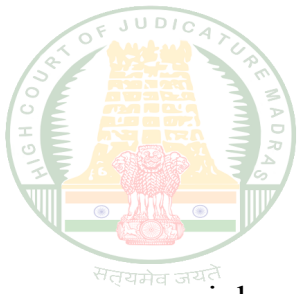


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3. The further case of the petitioner is that the petitioner had complied with the export obligation within a year of import of capital goods under the EPCG license in the year 2007 itself. However, the relevant documents were not submitted on time and ultimately, the petitioner had closed the business in the year 2007 and sold the factory in the year 2014. There was no failure on the part of the petitioner in complying with the condition of the EPCG license by submitting the relevant documents. The petitioner managed to collect all the relevant documents and submitted two applications on 19.09.2017 before the 2nd respondent in FORM ANF-5B together with original documents showing fulfillment of the export obligation against the two EPCG licenses. On receipt of the applications, the 2nd respondent informed the petitioner that already the 2nd respondent has adjudicated the cases and two separate orders have been passed on 21.07.2016. Hence, the petitioner was advised to file appeals before the 1st respondent.

4. The petitioner, on 17.10.2019, preferred two separate appeals before the 1st respondent and the same came to be dismissed by an order dated 11.03.2020,

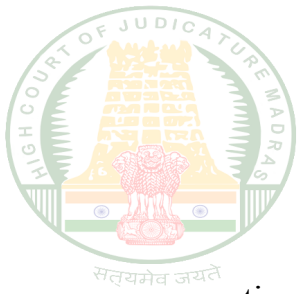


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mainly on the ground that the appeals have been filed beyond the period of limitation prescribed under Section 15(1)(b) of the Foreign Trade (Development and Regulation) Act, 1992 (in short “the Act”). Aggrieved by the same, the present writ petitions have been filed before this Court.

5. Heard both sides and perused the materials available on record.

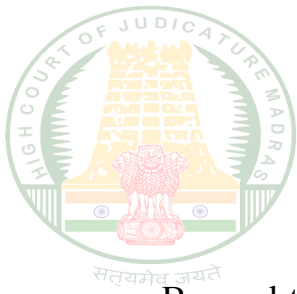
6. The petitioner is bound by the conditions imposed under the EPCG license issued in his favour. As per the condition, the petitioner must fulfill his export obligation within a period of eight years from the date of license and he is also expected to submit the relevant documents on time in FORM ANF-5B. Even though the petitioner claims that he had fulfilled the export obligations, admittedly, the forms were not filed and thereby, the petitioner has not complied with the formalities as required. The petitioner seems to have closed the business in the year 2007 and sold the factory in the year 2014. Ultimately, only in the year 2017, the petitioner approached the 2nd respondent with the relevant documents. In the



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meantime, already the 2nd respondent had passed orders on 21.07.2016 imposing penalty. This order was passed only after attempts were made to serve the show cause notice on the petitioner and no one appeared during the enquiry and therefore, the 2nd respondent had to decide the case on the available materials. In any case, non fulfillment in filing the relevant form, by itself, is a default on the part of the petitioner and that itself will result in imposition of penalty. The petitioner was informed on 19.01.2017 regarding the order passed by the 2nd respondent dated 21.07.2016. Even thereafter, the petitioner did not take any action for nearly two years and only on 17.10.2019, the petitioner preferred appeals before the 1st respondent.

7. The 1st respondent has rightly rejected the appeals on the ground that it is barred by limitation by relying upon Section 15(1)(b) of the Act. In order to entertain an appeal, it has to be filed within a period of 45 days from the date on which the decision was made or when the order was served and the 1st respondent will be able to condone the delay of only a maximum of 30 days thereafter.

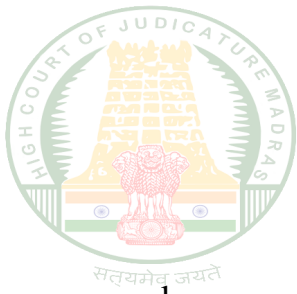


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Beyond this period, the 1st respondent is not vested with the power to condone the delay.

8. Even if Section 15(1)(b) of the Act is given a wider interpretation, this Court wanted to see as to whether the petitioner, after having knowledge of the order passed by the 2nd respondent, had immediately approached the 1st respondent and filed an appeal. However, that has not happened in this case. The petitioner was informed about the order dated 21.07.2016 on 06.11.2017 and the same is evident from the communication made by the Deputy Director General of Foreign Trade and even thereafter, the petitioner waited for nearly two years and filed the appeals only on 17.10.2019. Therefore, even if the limitation is calculated from the date of knowledge, it is well beyond the period of limitation prescribed under the Act.

9. The reasons given by the petitioner for not having been able to file the relevant form in spite of completing the export obligation, is not an issue that can



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be gone into in the present writ petitions. This is in view of the fact that the petitioner, after fulfilling the export obligation, is also expected to file the relevant form in order to enable the authorities to act upon the same. If it has not been done, the fulfillment of export obligation will only remain to be an *ipse dixit*, without any document substantiating the same. The enormous delay on the part of the petitioner in approaching the authorities becomes fatal for the petitioner and this Court does not find any ground to interfere with the proceedings of the 1st and 2nd respondents.

In view of the above discussion, this Court finds no merit in these writ petitions and accordingly, they stand dismissed. No costs. Consequently, connected W.M.Ps are closed.

26.06.2025

Index : Yes/No

Neutral Citation : Yes/No

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Zonal Additional Director General of Foreign Trade
O/o.The Zonal Additional Director General of Foreign Trade
No.26, Haddow Road, 4th Floor, Shastri Bhavan Annexe
Chennai 600 006

2.Deputy Director General of Foreign Trade
O/o.The Joint Director General of Foreign Trade
1544, India Life Building (Annexe)
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Coimbatore 641 018



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N. ANAND VENKATESH, J.

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