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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-09-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 35234 of 2025

and WMP Nos. 39447, 39450 & 39451 of 2025

M/s Southern Alloy Foundries (P) Ltd
Represented by its Director T. Kandaswamy,
1-B, J.V.L. Towers,
117, Nelson Manickam Road,
Aminjikarai, Chennai-600 029

Petitioner(s)

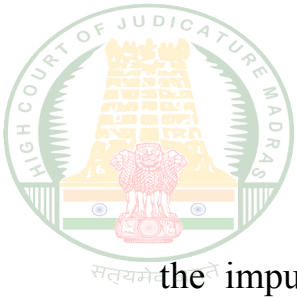
Vs

1. The Assistant Commissioner of Customs (Chennai-IV)
Custom House, No.60, Rajaji Salai,
Chennai-600 001

2.The Assistant Commissioner
Arrear Recovery Cell, Custom House,
No.60, Rajaji Salai, Chennai-600 001

Respondent(s)

PRAYER Writ Petition filed under Article 226 of the Constitution of India for
issuance of a Writ of Certiorarified Mandamus, call for the records pertaining to



the impugned order-in-original No.82786/2021 dated 31.03.2021 in F.No.S.
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Misc.2/1292/2016-DBK passed by the 1st Respondent and quash the same and further, direct the 2nd Respondent to remove the alert regarding the arrears in the Electronic Date Interchange (EDI) System with respect to Petitioner's IEC No.0490000029.

For Petitioner(s): Mr.Sethu Prabakaran

For Respondent(s): Mr.J.Vasu
Junior Panel Counsel

ORDER

This writ petition has been filed challenging the impugned proceedings of the 1st respondent dated 31.03.2021 and for a direction to the 2nd respondent to remove the alert regarding the arrears in the Electronic Date Interchange (EDI) System with respect to petitioner's IEC No.0490000029.

2. When the matter came up for hearing on 16.09.2025, this Court passed the following order:



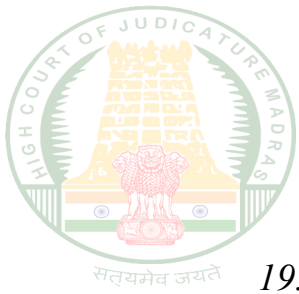
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This writ petition has been filed challenging the impugned proceedings of the first respondent dated 31.03.2021 and for a direction to the second respondent to remove the alert regarding the arrears in the Electronic Data Interchange (EDI) system with respect to petitioner's IEC No.0490000029.

2. The main ground that has been urged by the learned counsel for the petitioner is that the first respondent has rendered the finding without taking into consideration the reply given by the petitioner and also the documents submitted.

3. The first respondent has rendered a finding as if the petitioner neither replied to the show cause notice nor appeared in person to submit the proofs. Whereas, the petitioner has taken a stand that the petitioner attended the personal hearing on 17.03.2021 and a fresh negative statements were submitted vide letter dated 26.04.2021 and none of these form part of the order passed by the first respondent.

4. The other ground that has been raised by the learned counsel for the petitioner is that the very show cause notice dated

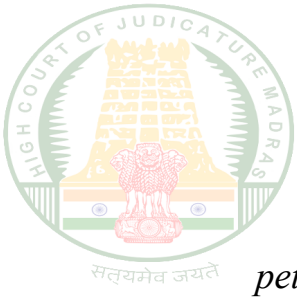


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*19.05.2017 is time barred. To substantiate the same, the learned counsel relied upon the Division Bench judgment of the Gujarat High Court in the case of **Pratibha Syntex Ltd. Vs. Union of India** reported in **2013 (287) E.L.T. 290**. The petitioner has relied upon yet another judgment of the Gujarat High Court in the case of **Raghav Internationa Vs. Union of India** reported in **2023 (384) E.L.T. 653**. Even insofar as the merits of the case is concerned, the learned counsel for the petitioner submitted that the petitioner had realised the export proceeds in respect of the shipping bills in question. In support of the same, the petitioner has submitted the original negative statements duly certified by the chartered accountants for the period from 01.01.2012 to 30.12.2014 with respect to the subject shipping bills to establish that the export proceeds have been realized by the petitioner for the said period.*

5. Mr.J.Vasu, learned Junior Panel Counsel takes notice on behalf of the respondents.

6. The learned Standing Counsel appearing on behalf of the respondents shall take instructions in this case as to why the first respondent has not taken into consideration the statement recorded from the petitioner as well as the document submitted by the



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petitioner at the time of enquiry. The entire order of the first respondent proceeds on the basis that the petitioner neither replied to the show cause notice nor appeared in person to submit the proof. The materials that have been placed before this Court speaks otherwise.

7. Post this case under the caption “for orders” on 25.09.2025.

3. When the matter was taken up for hearing today, the learned Junior Panel Counsel appearing on behalf of the respondents submitted that the 1st respondent has taken into consideration all the relevant materials and has passed the order. That apart, the petitioner also has an effective, efficacious and alternative remedy to file an appeal before the Commissioner of Customs (Appeal) and without resorting to the alternative remedy, the petitioner has straight away come to this Court and this writ petition is liable to be dismissed on that ground alone. The learned counsel submitted that even on merits, the petitioner has not made out a case and hence, sought for the dismissal of this writ petition.

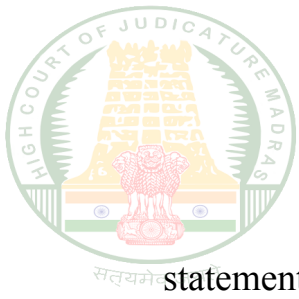


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4.This Court has carefully considered the submissions made on either side and also the materials available on record.

5.It is true that the petitioner has an alternative remedy to file an appeal before the Commissioner of Customs (Appeal). However the availability of an alternative remedy by itself is not a ground for this Court to stop exercising its jurisdiction under Article 226 of the Constitution of India. It is more in the nature of a self imposed restriction and in an appropriate case, where this Court finds that an order has been passed without jurisdiction or an order has been passed in violation of the principles of natural justice, in those cases, the Court can always exercise its jurisdiction in spite of the availability of an alternative remedy.

6.In the case in hand, immediately after the Show Cause Notice was issued to the petitioner, the petitioner attended the personal hearing and his



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statements were also recorded. Thus, the petitioner has given a reply and has participated in the proceedings. In spite of the same, the 1st respondent has rendered a finding as if the petitioner neither replied to the Show Cause Notice nor appeared in person to submit the proof. The fact that the petitioner attended the enquiry is borne out by records.

7.The learned counsel for the petitioner has taken a further stand that the very Show Cause Notice dated 19.05.2017, is barred by limitation and to substantiate the same, the learned counsel has relied upon two judgement of the Gujarat High Court.

8.In the considered view of this Court, the order passed by the 1st respondent is vitiated, since it is in violation of principles of natural justice. The 1st respondent has not taken into consideration the stand taken by the petitioner and the documents that were placed before the respondents while recording the statement of the petitioner. In view of the same, the impugned proceeding of the



1st respondent dated 31.03.2021, is liable to be interfered by this Court and accordingly, the same is hereby quashed.

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9. The matter is remanded back to the file of the 1st respondent and the 1st respondent is directed to consider the grounds that have been raised by the petitioner in the reply and also the statement recorded from the petitioner at the time of enquiry and the documents that were placed by the petitioner during the enquiry. On a safer side, the petitioner is directed to submit a detailed reply along with all the relevant documents before the 1st respondent, within a period of one week from the date of receipt of a copy of this order. The 1st respondent on receipt of the same, shall proceed further to consider and pass orders on merits, within a period of four weeks thereafter. The alert has been given by the 2nd respondent only based on the order passed by the 1st respondent. Since the order of the 1st respondent has been set aside by this Court, the 2nd respondent shall remove the alert and await for the final orders to be passed by the 1st respondent.



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10. In the result, this writ petition stands allowed in the above terms. No

Costs. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

ssr



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To

1. The Assistant Commissioner of Customs (Chennai-IV)

Custom House, No.60, Rajaji Salai,

Chennai-600 001

2. The Assistant Commissioner

Arrear Recovery Cell, Custom House,

No.60, Rajaji Salai, Chennai-600 001



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N.ANAND VENKATESH J.

SSR

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