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WP(MD) No. 9886 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-10-2025

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

WP(MD) No. 9886 of 2023

& WMP(MD)Nos.8720, 8721 & 8723 of 2023

M/s. BELLCO Industries
Rep. By Its Proprietor,
Mr. C. Gunasingh, 10th KM,
Tiruchendur Road, S.No. 76, 81
Krishnapuram, Palayamkottai,
Tirunelveli - 627 011.

Petitioner(s)

Vs

1.The Commissioner Of Customs
Custom House, New Harbour Estate,
Tuticorin - 628 004.

2.The Assistant Commissioner of
Customs, EPCG-DEEC Section,
Customs House, New Harbour Estate,
Tuticorin – 628 004.

3.The Senior Manager,
Tamilnad Mercantile Bank Limited,
St.John College Campus,
Water Tank Road, Palayamkottai,
Tirunelveli – 627 023.

Respondent(s)



Prayer: This Writ Petition has been filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records relating to the order of the Assistant Commissioner of Customs, EPCG-DEEC Section, Tuticorin, the 2nd respondent herein in File No.39/3-EPCG, dated 14.02.2023 and quash the same as illegal and direct the respondents herein to return the amount recovered by Enforcing the Bank Guarantee forthwith.

For Petitioner(s): Mr. A.K. Jayaraj

For Respondent(s): Mr.B.Aravind Srivatsav for R1
Mr.K.Ramana moorthy for R2

ORDER

This Writ Petition has been filed for a Writ of Certiorarified Mandamus calling for the records relating to the order of the Assistant Commissioner of Customs, EPCG-DEEC Section, Tuticorin, the 2nd respondent herein in File No.39/3-EPCG, dated 14.02.2023 and to quash the same as illegal and direct the respondents herein to return the amount recovered by enforcing the Bank Guarantee forthwith.



2. The case of the petitioner is that the petitioner company is engaged in the manufacture of Pet Chips and trading of Aluminium Scrap etc., While so, the petitioner herein initiated action for the import of capital goods/machinery namely bottle crushing machine along with accessories under EPCG Scheme for the reason that the the product namely pet chips which are going to be supplied to the merchant exporter are meant for the purpose of export to foreign countries. However, the petitioner did not comply with the export obligation as per the EPCG scheme. Therefore, the Assistant Commissioner of Customs/second respondent issued a show-cause notice dated 28.02.2023 denying the benefit of Customs Duty exemption, for recovery of interest and for imposing penalty under Section 117 of the Customs Act, for non-fulfilment of export obligation and prior to that the second respondent passed the impugned order dated 14.02.2023 ordering enforcement of Bank Guarantee No.152BG090152, dated 15.04.2008 given by the petitioner and subsequently, encashed the same, on the ground that the petitioner has not produced the Export Obligation Discharge Certificate. Challenging the same, the present Writ Petition is filed.



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3.The learned counsel for the petitioner would submit that during the pendency of the Writ Petition, in the absence of any interim order, the respondents encashed the bank guarantee of the petitioner. However, such encashment of the bank guarantee is subject to the result of the adjudication pending before the second respondent. If the petitioner succeeds in the adjudication pending before the second respondent, pursuant to the show-cause notice issued for non-fulfilment of the export obligation, the respondent may be directed to refund the encashed bank guarantee to the petitioner.

4.Heard the learned counsel petitioner and the learned counsel for the respondents and perused the materials available on record.

5.In view of the limited prayer sought by the learned counsel for the petitioner, without getting into the merits of the case, this Court is inclined to give a direction to the second respondent to conclude the adjudication as against the petitioner pursuant to the show-cause notice dated 28.02.2023 and pass



appropriate orders on merits. If the petitioner succeeds, the second respondent is directed to refund the bank guarantee, which was encashed by the respondent.

6.The Writ Petition is disposed of in the above terms. No costs.

Consequently, the connected miscellaneous petitions are closed.

14-10-2025

Tsg

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

To

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