

W.P.No.33712 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.33712 of 2024

and

W.M.P.Nos.36506, 36500 and 36504 of 2024

Mr.Noorbudeen Shajahan
Proprietor of M/s. Eco Collections,
No.3, Thozhuthaur, Chennamapattai,
Thiruvallur,
Tamil Nadu 631 209.

..Petitioner

Vs.

1.The Deputy Commissioner of Customs (CH-IV)
O/o.The Commissioner of Customs,
Chennai IV, Custom House,
No.60, Rajaji Bhavan,
Chennai 600 001.

2.The Assistant Commissioner of Customs (Import)
Custom House,
No.60, Rajaji Bhavan,
Chennai 600 001.

3.The Assistant Commissioner,
Arrear Recovery Cell,
Custom House,
No.60, Rajaji Bhavan,
Chennai 600 001.

..Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus call for the records pertaining to the impugned Order-in-Original No.83073/2021-DBK-BRC dated 27.03.2021 in F.No.S.Misc.2/5341/2016-BRC(DBK) passed by the first respondent and quash the same and further, direct the third respondent to remove the alert regarding the arrears against Order-in-Original No.83073/2021-DBK-BRC dated 27.03.2024 in the Electronic Date Interchange (EDI) System with respect to the petitioner's IEC No.0411004263.

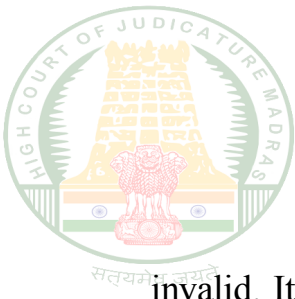
For Petitioner : Mr.Hari Radhakrishnan

For Respondents : Mr.S.V.Srinivasan,
Standing Counsel.

ORDER

The present writ petition is filed challenging the impugned order dated 27.03.2021 whereby the recovery of drawback which has been availed by the petitioner was ordered on the premise that the petitioner had failed to furnish the proof of realization of export proceeds.

2. It is submitted by the learned counsel for the petitioner that the impugned order has been served on the petitioner at the old adress viz., No.9, Lakshmipuram, 2nd Street, Villivakkam, Chennai, Tamil Nadu 600 049 and thus the service is



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invalid. It is then submitted that the petitioner had shifted from the said address to a New address viz., No.3, Thozuthaur, Chennamapattai, Thiruvallur, Tamil Nadu 631 209. The above change in address was duly intimated to the Office of Zonal Director General of Foreign Trade, which in fact is reflected in the bill of entry and also uploaded in the IEC portal. Thus, the impugned order having been sent to the old address cannot be stated to be valid service.

3. The learned counsel for the respondents would submit that a Show Cause Notice was issued to the exporter on 19.09.2017, followed by personal hearings offered on 24.03.2021, 25.03.2021 and 17.03.2021.

4. To a pointed question as to whether the notices of personal hearing and the impugned order were sent to the old address or new address, it was submitted by the learned counsel for the respondents that they were sent to the old address, which is also evident from a perusal of the impugned order.

5. The learned counsel for the petitioner would make reference to the statement of bank realization to submit that as a matter of fact, in respect of the above mentioned shipping bills, the export proceeds have been realized. The



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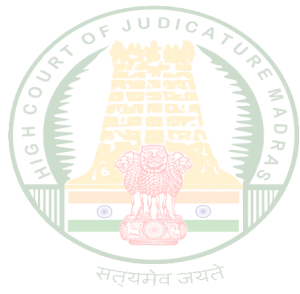
learned counsel for the respondents would submit that the petitioner may produce the said statement, within a period of two weeks and the same would be considered and orders would be passed in accordance with law.

6. In view thereof, the impugned order is set aside. The petitioner is directed to submit their representation along with relevant documents in support of the petitioner's entitlement to the benefit of duty drawbacks within a period of two weeks from the date of receipt of a copy of this order. If such a representation is filed, the same would be considered and orders would be passed in accordance with law after affording the petitioner a reasonable opportunity of hearing.

7. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

28.11.2024

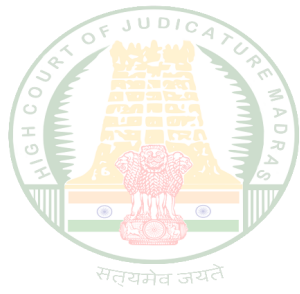
Speaking (or) Non Speaking Order
Neutral Citation: Yes/No
shk



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MOHAMMED SHAFFIQ, J.

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