
(2002) 11 MAD CK 0028
In the Madras High Court
Case No : Writ Petition No. 40594 of 2002

J.G. Impex (P) Ltd.

APPELLANT

Vs

Designated Authority

RESPONDENT

Date of Decision : 15-11-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 154 ELT 57

Hon'ble Judges : K.P. Sivasubramaniam, J

Bench : Single Bench

Advocate : S. Murugappan, for the Appellant; V.T. Gopalan, Addl. Solicitor General for R. Karthikeyan, Addl. Central Govt. Standing Counsel, for the Respondent

Final Decision : Dismissed

Judgement

K.P. Sivasubramaniam, J.—The petitioner prays for the issue of a writ of mandamus directing the respondent to extend time limit for

furnishing the comments to the communication of the respondent dated 28-10-2002 by another 30 days from 5-11-2002.

2. The petitioner is aggrieved by the communication which was sent by the Ministry of Commerce and Industry, in terms of Rule 16 of the Indian

Anti-Dumping Rules, hereinafter called "the Rules". In the last paragraph of that order, the respondent has stated that interested parties may

comment on the issue dealt with thereunder at the latest by 15.00 hours on Tuesday 5-11-2002, It is also further stated that the investigations are

time bound, and request for extension of time shall not be entertained. As the said communication dated 28-10-2002 was received by the

petitioner only on 1-11-2002 and there was hardly any time for him to respond

to the information called for by the respondent, by letter dated 5-11-2002 he has intimated stating that the intimation was received only on 1-11-2002 and 2-11-2002 and 3-11-2002 being Saturday and Sunday and 4-11-2002 was a holiday on account of Deepawali, it was not possible for him to send a reply before 15.00 hours on 5-11-2002.

3. Notice was ordered to the respondent and I have also heard the learned Additional Solicitor General of India. He points out that Anti-Dumping

Rules relate to larger national issues of framing policies of the Government in respect of import and export and fixing of the Customs Tariff and the

entire exercise is to be completed by a time bound Schedule as provided under Rule 17. Under Rule 17 the Designated Authority shall within one

year from the date of initiation of an investigation, determine as to whether article under investigation was being dumped in India and thereafter

submit a report to the Central Government. Proviso also empowers the Central Government to extend it by six months. Therefore, the entire

exercise was time bound and the nature of the very enquiry was a public enquiry. Learned Additional Solicitor General also draws my attention to

the various provisions under the Rules. Rule 5 deals with initiation of investigation. Pursuant to the initiation of investigation and the enquiry, the

Designated authority shall record preliminary findings under Rule 12, which has already been complied with. Therefore, what remained to be

complied with was only rendering a finding in terms of Rule 17 which was time bound. It is only in those circumstances, a limited period was

prescribed for the enquiry and the nature of the enquiry being only public and time bound, the petitioner has no legal right to ask for extension of

time.

4. I have heard the submissions of both sides.

5. Learned Counsel for the petitioner would state that having sent a notice, the procedure adopted must be reasonable and the petitioner was left

without any time to respond properly.

6. A perusal of Rule 17 shows that no show-cause notice is contemplated. Under Rule 16 the Designated Authority has to, before giving its final

findings, inform all interested parties of the essential facts under consideration which form the basis for its decision. Therefore, under the said Rule,

there is no obligation on the part of the authorities to give any prior notice. It is

only for the completion of the exercise of rendering the final findings and giving opportunity to the Industry, parties have been informed. This is not a quasi judicial decision involving the interest or cause of action of a single individual whereunder compliance of principles of natural justice will be mandatory. The very nature of the enquiry is only a public enquiry and therefore, considering that Rule 16 does not contemplate any show-cause notice, I am inclined to agree with the submissions of the Additional Solicitor General. The entire exercise under the Rules is time bound exercise and the enquiry is public in nature. Therefore, the petitioner cannot be heard to postpone the enquiry only due to his inconvenience. If he is really interested then he should have responded promptly instead of asking for time. Similar letters have been addressed to other members of the trade and they do not appear to have raised any objection to the process.

7. Therefore, I do not find any grounds to interfere with the impugned order. The writ petition is dismissed. No costs.