

(2015) 04 MAD CK 0346

In the Madras High Court

Case No : Writ Petition No. 11764 of 2015 and M.P. No. 1 of 2015

Streamline Forwarders

APPELLANT

Vs

Commissioner of Customs

RESPONDENT

Date of Decision : 22-04-2015

Acts Referred:

Citation : (2015) 321 ELT 625

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : D. Ravichander, for the Appellant; K. Mohana Murali, Advocates for the Respondent

Judgement

T. Raja, J—This Writ Petition has been filed by Streamline Forwarders, Chennai, represented by its Managing Partner Ms. Srividya Priya, seeking a Writ of Mandamus directing the respondents herein to process and issue a renewal of Customs Brokers License to the petitioner herein within a time frame despite the oral or other objections raised by anyone pertaining to dispute in partnership. Learned Counsel appearing for the petitioner submits that the petitioner has entered into a registered Partnership Deed dated 21-2-1997 with M.A. Zageer Hussain, P. Manikandan, J. Rajagopalan and A. Rangarajulu to carry on business in "Shipping, Clearing and Forwarding and Consol". The said partnership underwent various reconstitutions from time to time.

2. On 1-1-1998, one K. Manuel was inducted to the firm. Again the partnership firm was once again reconstituted with Suresh Kumar Sain, Pradeep Kumar Sain and Amit Manchanda. The above reconstitution was also informed to the respondents from time to time. Once again the firm was reconstituted by inducting one more partner S. Balachandran. Thereafter, the firm was reconstituted with the petitioner and the petitioner's husband S. Balachandran and they were running the firm as partners, by doing Customs Clearance business with the permanent Customs Clearance Permit CHA Licence already issued to them without any interference. When the exclusion of Manikandan was

also brought to the knowledge of the respondents and the same was also endorsed by the respondents in the license vide proceedings dated 28-4-2014, the respondents ought not to have delayed the request of the petitioner to issue a renewal of Customs Broker License.

3. It was the claim of the petitioner that when a process fee of Rs. 5,000/- was paid on 8-9-2014 and Solvency Certificate to the tune of Rs. 50,000/-, dated 11-11-2014 was produced and although the petitioner was not liable to pay penalty of Rs. 40,000/-, to avoid further controversy and to expedite the renewal, the petitioner has also paid a sum of Rs. 40,000/- on 19-12-2014.

4. From the above track record of the petitioner, it is seen that there cannot be any hesitation on the part of the respondents to consider the request for renewal of Customs Broker License in petitioner's favour. Being so, even after completing the exercises as contemplated in Regulation 13 of the Customs Broker Licensing Regulations 2013, to the reasons best known to respondents, they have not passed the final order.

5. Mr. K. Mohana Murali, the learned Counsel appearing for the respondents would submit that as the petitioner's application form for renewal has been pending, if the petitioner has paid the entire requisite amount for renewal, his pending application form for renewal would be considered and the Assistant Commissioner of Customs (CBS) has informed the petitioner vide his letter dated 6-1-2015 that the Commissioner (Chennai VIII Commissionerate) has already allowed the petitioner to operate his firm for three months till 29-3-2015.

6. The above statement of the learned counsel for the respondents is recorded. Further, from the records, as mentioned above, it is clear that the petitioner has already deposited the process fee of Rs. 5,000/- on 8-9-2014 and also produced the Solvency Certificate of Rs. 50,000/- on 11-11-2014 and once again he has deposited Rs. 40,000/- on 19-12-2014. The proceedings dated 6-1-2015 also shows the Commissioner (Chennai VIII Commissionerate) has allowed the petitioner to continue to operate the business of the firm till 29-3-2015.

7. In view of the above, this Court finds that there cannot be any impediment on the part of the respondents to consider the petitioner's request of renewing the license. Hence, this Court directs the respondents to pass appropriate orders with respect to Customs Broker License and till then, the order passed by the Commissioner (Chennai VIII Commissionerate) allowing the petitioner to continue to operate the firm shall continue. With the above directions, the Writ Petition is disposed of. No Costs. Consequently, the connected miscellaneous petition is closed.