
(1995) 12 MAD CK 0020

In the Madras High Court

Case No : Writ Petition No. 16780 of 1995

T.G. Elumalai and Co.

APPELLANT

Vs

The Commissioner of Customs and Another

RESPONDENT

Date of Decision : 07-12-1995

Acts Referred:

Customs Act, 1962 — Section 129, 129A

Citation : (1996) 53 ECC 8

Hon'ble Judges : AR. Lakshmanan, J

Bench : Single Bench

Judgement

AR. Lakshmanan, J.—Heard Mr. V. Ramachandran, learned Senior Counsel for the petitioner and Mr. K. Ilias Ali, Additional Central

Government Standing Counsel, taking notice for the respondents.

2. The writ petition has been filed against the order of the 1st respondent in F. No. R.76/CHA dated 23/24.11.1995 revoking the licence given to

the petitioner in exercise of the powers conferred on the 1st respondent under Regulation 21(1) of the Custom House Agents Licensing

Regulations, 1984 (hereinafter referred to as the regulations). By the impugned order, the 1st respondent has revoked the Custom House Agent

Licence No. R.76/CHA issued to the petitioner forth with and also forfeited the security deposit of Rs. 5,000/-. Aggrieved by the said order, the

present writ petition has been filed.

3. In the writ petition, several points have been taken by the petitioner challenging the impugned order. It is seen from the impugned order that the

proceedings were initiated in the year 1983 and the enquiry has reached its finality only in the year 1995 under the impugned proceedings. It is not

in dispute that during the pendency of the proceedings, there is no complaint against the petitioner for any violation of any of the conditions of the Regulations. To a query by the Court, to the Counsel for the respondents whether there was any other complaint against the petitioner, the counsel, on instructions from the officer present in Court, said that there was no other complaint against the petitioner except the one mentioned in the impugned order. It is also not in dispute that during the pendency of the enquiry before the 1st respondent, the petitioner was allowed to operate as a Custom House Agent. But, however, as rightly pointed out by the learned Counsel for the respondents, the writ petition against the impugned order is not maintainable in this Court at this stage. Regulation 23(8) of the Regulations provides that any Custom House Agent aggrieved by any decision or order passed under Regulation 21 or Sub-regulation (7) of Regulation 23, may appeal u/s 129-A of the Customs Act, 1962, to the Customs and Central Excise (Control) Appellate Tribunal [sic] established u/s 129(1) of the Customs Act, 1962. The petitioner has rushed to this Court against the impugned order without availing the alternative statutory remedy available under the Regulations. Therefore, this Court while dismissing the writ petition on the ground of maintainability, however permits the petitioner to move the Customs and Central Excise (Control) Appellate Tribunal u/s 129-A of the Customs Act, if he so desires, and file an appeal against the impugned order. Since the petitioner was permitted to operate as Custom House Agent all these years, I stay the impugned order for a period of four weeks from today. In the mean while, the petitioner to move the appellate forum and obtain further orders in accordance with law. No costs.