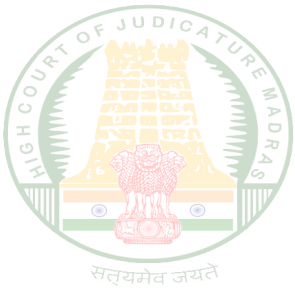




W.P. No.20824 of 2025



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2025

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P. No.20824 of 2025

and

W.M.P.Nos.23506 and 23507 of 2025

M/s.Sudharsan Logistics Pvt. Ltd.,
Rep. by its General Manager, Mr. T. Selvaraaj,
Aged 72 years,
No.41, Red Hills High Road,
Andarkuppam, New Manali,
Chennai - 600 103.

... Petitioner

Vs.

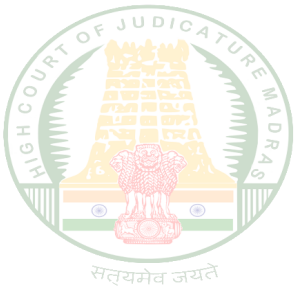
The Commissioner of Customs,
Chennai - IV (Export),
Custom House,
No.60, Rajaji Salai,
Chennai - 600 001.

... Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India in the nature of writ of certiorari to call for the records of the respondent culminating in the order for suspension dated 14.03.2025 passed from File F.No.S.Misc.01/2011-Enq.:DIN No.20250373MZ000000B71B by the respondent and quash the same.

For Petitioner : S. Murugappan

For Respondent : M. Santhanaraman, SPC



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ORDER

This writ petition has been filed, challenging the impugned order dated 14.03.2025, suspending the CFS license, which was earlier granted to the petitioner under the Regulation 11 (2) of the Handling of Cargo in Customs Areas Regulations, 2009.

2. The suspension order was issued against the petitioner on account of the following:

a) Several executive staff members of the petitioner company, jointly and severally, colluded with import -export commission agents to remove the subject cargo - 56 MT of Poppy seeds - along with cargo from the public bonded warehouse cargo from the CFS without declaring it to the proper officer.

b) According to the respondents, the subject import consignment was smuggled into India from Myanmar through concealment and mis-declaration of goods and the subject CCSP / Custodian, appears to have facilitated the entry and exit of cargo laden trucks from the customs area, without making any entries in the 'Gate-in and Gate-out' security registers



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and without obtaining permission from the proper officer;

c) The respondent has also alleged that the petitioner's employees have substituted the cargo -56 MTs of Poppy Seeds with locally procured dummy cargo viz., Rice Bran. The respondent also claims that the petitioner's employees appeared to have altered the weighment details of said 02 import containers, which carried 56 MT of poppy seeds;

d) The respondent has also alleged that the petitioner appears to have deleted the concerned CCTV footage from the server of the petitioner to erase the evidence of the contravention.

3. The petitioner in this writ petition has challenged the impugned suspension order on the following grounds:

a) The petitioner's employees, against whom allegations have been levelled by the respondent, have all been suspended from the service of the petitioner;

b) The investigation is yet to be completed and the investigating agency is yet to establish the identities of the persons involved in the incident and they are yet to nab them;

c) It is yet to be proved that the imported goods alleged to be



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smuggled are indeed poppy seeds;

d) The suspension order was issued to the petitioner on 14.03.2025, whereas the incident happened in November, 2024. Only in cases, where immediate action is required, which includes suspension, Regulation 11 (2) of the Handling of Cargo in Customs Areas Regulations, 2009 gets attracted. Since the suspension order was issued only in the month of March, 2025, although the incident happened in the month of November, 2024, Regulation 11 (2) of the Handling of Cargo in Customs Areas Regulations, 2009 will not apply;

e) The petitioner was issued with the CFS license in 2015 and according to the petitioner, prior to the subject incident, they were having an unblemished track record;

f) The entire business operations of the petitioner have been affected because of the suspension order.

4. The learned Standing Counsel for the respondent would submit that since the offence alleged against the petitioner is serious in nature and involves import of poppy seeds, which is a contraband item and is worth more than 10 crores, the question of interfering with the impugned order



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does not arise. According to him, the petitioner's employees were involved in the commission of the offence under the Customs Act and only in accordance with the subject Regulations, the petitioner's license was suspended.

5. The learned Standing Counsel for the respondent also drew the attention of this Court to the counter affidavit filed by the respondent before this Court and would submit that the term "immediate action" referred to in Regulation 11 (2) of the Handling of Cargo in Customs Areas Regulations, 2009 does not mean that immediately on the date of incident, the petitioner's license ought to have been suspended. He would submit that it would suffice if the suspension order is issued after the investigation authority comes to the prima facie consideration that the petitioner is involved in the contravention of the provisions of the Customs Act and its Regulations. Therefore, the learned Standing Counsel for the respondent would submit that the impugned suspension order, which has been passed 4 months from the date of the incident will come within the purview of Regulation 11 (2) of the Handling of Cargo in Customs Areas Regulations, 2009 as the suspension order has been issued only after receiving information from the



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DRI that the petitioner was involved in the commission of offence and immediately, thereafter, the impugned order came to be passed, suspending the license of the petitioner. He would also submit that there is an appellate remedy available to the petitioner as per Regulation 12 of the Handling of Cargo in Customs Areas Regulations, 2009. However, the same is disputed by the learned counsel for the petitioner, who would submit that since the suspension order has been issued under Regulation 11 (2) of the Handling of Cargo in Customs Areas Regulations, 2009, the appellate provision provided under Regulation 12 will not apply.

6. The contention of the learned Standing Counsel appearing for the respondent that there is an appellate remedy, is a debatable issue, which this Court need not consider at this stage. This Court after giving due consideration to the grounds raised by the petitioner in this writ petition, which has been recorded supra, and after giving due consideration to the fact that the petitioner claims that they are having an unblemished track record prior to the date of the impugned suspension order and that they are holding the license from 2015 onwards, this Court prima facie has to direct the respondent to reconsider the impugned suspension order after giving an



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opportunity of one personal hearing to the petitioner and also granting an opportunity to the petitioner to submit its explanation, reiterating the grounds that have been raised in this writ petition so as to enable the respondent to take a decision, whether the request of the petitioner for reconsideration is a genuine one or not. This Court is not expressing any opinion on the merits of the petitioner's contention. It is left open for the respondent to consider the same on merits and in accordance with law. This Court is also not quashing the impugned order. This Court is only directing the respondent to reconsider the impugned order in the light of the contentions raised by the petitioner in this writ petition. This order is passed only in the interest of justice as the petitioner should not be unlawfully deprived of its legitimate rights to carry on business based on the license granted to the petitioner by the respondent earlier.

7. For the foregoing reasons, this Writ petition is disposed of by directing the petitioner to submit a representation to the respondent to reconsider the impugned order dated 14.03.2025 by stating the reasons as stated in this writ petition within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said representation, the



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respondent shall pass final orders on merits and in accordance with law after affording one personal hearing to the petitioner and also permitting the petitioner to submit its explanation as indicated supra within a period of four weeks thereafter. No Costs.

11.07.2025

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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Note: Issue Order Copy on 16.07.2025.

To

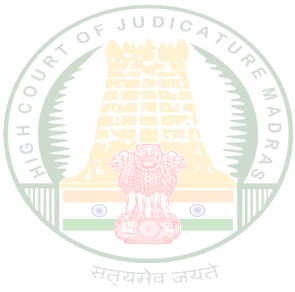
The Commissioner of Customs,
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ABDUL QUDDHOSE. J.,

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11.07.2025