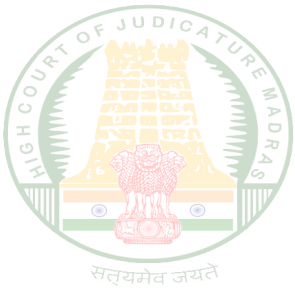




W.P. Nos.14017 & 14057 of 2025 and W.M.P. Nos.15774, 15778, & 15814 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2025

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. Nos.14017 & 14057 of 2025 and
W.M.P. Nos.15774, 15778 & 15814 of 2025

M/s.Pennar Industries Limited,
rep. by its CEO (Solar Business Unit),
Shri Abhinav Maharaju .. Petitioner in both cases

VS

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

2.The Deputy Commissioner of Customs,
Docks-Admin Section,
Export Commissionerate,
O/o.The Commissioner of Customs,
Chennai-IV, Custom House,
No.60, Rajaji Salai,
Chennai - 600 001. .. Respondents in both cases

Prayer in W.P. No.14017 of 2025: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus and call for the records pertaining to the impugned communication dated 08.04.2025 in CPGRAMS registration number CBOEC/E/2025/0002110 dated 29.03.2025 issued by the first respondent and quash the same and



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further direct the first respondent to renew the self sealing permission already given to the petitioner.

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Prayer in W.P. No.14057 of 2025: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari and call for the records pertaining to the impugned communication dated 10.10.2024 in F.No.CUS/EPF/SSP/1168/2024-Docks-Admn issued by the second respondent and quash the same.

For Petitioner in both cases : Mr.Hari Radhakrishnan

For Respondents in both cases : Mr.Sivaraman,
Junior Panel Counsel

COMMON ORDER

W.P. No.14017 of 2025 has been filed, challenging the impugned communications dated 08.04.2025 and 29.03.2025 issued by the first respondent.

W.P. No.14057 of 2025 has been filed challenging the impugned communication dated 10.10.2024 sent by the second respondent.

2.Under the impugned communications, the petitioner's request for renewal of their self sealing licence for a further period of five years has been rejected on the ground that the Facility Circular No.15 of 2023 dated 21.07.2023 issued by the Chennai Customs has been contravened by the



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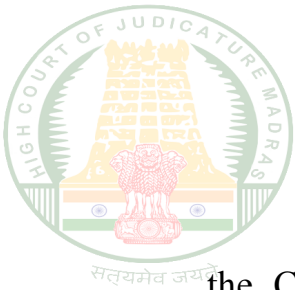
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petitioner. According to the respondents, as seen from the impugned communications, they have found two cases registered against the petitioner under the Customs Act in which one case pertains to the claim of wrongfully benefiting from S.No.39 of Notification No.24/2005-Cus- Payment of short levied duty and differential duty along with the applicable interest and another case was registered against the petitioner for wrongful availment of FTA (Free Trade Agreement) benefit on the import of 'Poly Solar Cells' from Malaysia.

3.The petitioner has filed documents before this Court in support of their contention that in respect of the first case disclosed in the impugned communication, namely, one pertaining to the claim of wrongful notification benefit under Sl.No.39 of Customs Notification No.24/2005- Cus payment of short levied duty and paid differential duty along with applicable interest, the said case was dropped by the customs department and the same has also been admitted by the respondents, which is also confirmed by the learned Junior Panel Counsel appearing for the respondents.



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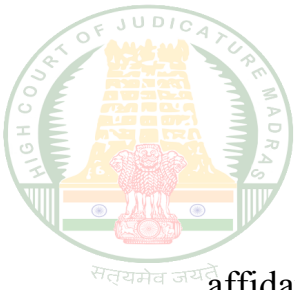


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4. In respect of the other case, registered against the petitioner under the Customs Act for wrongful availment of Free Trade Agreement on import of "Poly Solar Cell" from Malaysia is concerned, the petitioner has contended that pursuant to the issuance of show cause notice from the respondents, the petitioner had approached the settlement commission as per the provisions of Section 127B of the Customs Act and the petitioner has also paid the differential duty with interest as claimed by the respondents, excepting for one bill of entry for which the petitioner claims that they are not liable to pay on account of limitation. The petitioner also claims that the alleged wrongful availment of Free Trade Agreement on import of "Poly Solar Cell" from Malaysia is on account of the alleged production of the fabricated document, which the petitioner claims that they cannot be held liable. The petitioner categorically contends that they have not contravened any of the provisions of the Customs Act and they also contend that since one of the cases has been dropped by the Customs Department and in respect of the other case, the petitioner has paid the admitted differential duty along with interest and further they having approached the settlement commission, it cannot be treated that the petitioner has contravened the provisions of the Customs Act.



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5.Learned counsel for the petitioner reiterated the contents of the affidavit filed in support of these petitions before this Court as extracted supra. He also drew the attention of this Court to the relevant documents/orders filed along with these writ petitions in support of the petitioner's contentions.

6.On the other hand, learned Junior Panel Counsel appearing for the respondents reiterated the contents of the counter affidavit filed before this Court. He would submit that only in accordance with the Facility Circular, the request of the petitioner for renewal of the self sealing licence has been rejected as the petitioner has committed contraventions under the Customs Act. He would further submit that the self sealing licence is granted only on faith, based on the credentials of the petitioner. He would submit that since the respondents have lost faith in the petitioner as the petitioner has contravened the provisions of the Customs Act, the question of granting renewal in favour of the petitioner does not arise. He would submit that only in accordance with the Circular, referred to supra, the request of the petitioner for renewal of their self sealing licence has been rejected under the impugned communications.



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7.However, as seen from the impugned communications, the contentions raised by the petitioner before this Court, namely,

a)approaching the settlement commission as per the provisions of Section 127B of the Customs Act and the payment of the admitted differential duty and interest for all the bill of entries excepting for one have not been considered;

b)Having dropped one of the cases out of the two cases, registered against the petitioner and since the petitioner has already paid the differential duty and interest in respect of the bill of entries excepting for one, the respondents ought to have considered those aspects as well before coming to the conclusion that the petitioner is not entitled for renewal of self sealing licence.

8.No personal hearing was also afforded to the petitioner as seen from the impugned communications. The petitioner also claims that they are having the self sealing licence for a period of 10 years and that they had also renewed the licence previously. The petitioner also claims that since they are a very large exporter of Solar Modules and they are in the business for more than 50 years, the impugned communications will certainly affect the



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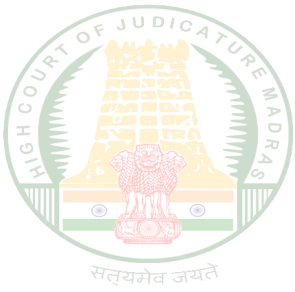
petitioner's business activities. Therefore, the petitioner ought to have been granted a personal hearing by the respondents and the respondents should have considered their explanation before issuing the impugned communications, which have drastic civil consequences on the petitioner. If the petitioner is able to prove that they are not at fault and that they have not contravened any other provisions of the Customs Act, their rights will be greatly prejudiced if the impugned communications are allowed to be implemented.

9. Therefore, this Court is of the considered view that the impugned communications have been issued in violation of principles of natural justice as no personal hearing was afforded to the petitioner and the contentions raised by the petitioner before this Court have not been considered in the impugned communications.

10. For the foregoing reasons, the impugned communications dated 08.04.2025, 29.03.2025 and 10.10.2024 respectively are hereby quashed and the respondents are directed to re-consider the petitioner's application seeking for renewal of the self sealing licence, on merits and in accordance



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ABDUL QUDDHOSE,J.

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with law, after affording one personal hearing to the petitioner and after giving an opportunity for the petitioner to submit their explanation and considering the same, on merits and in accordance with law. The respondent shall pass final orders within a period of eight weeks from the date of receipt of a copy of this order.

11. With the above directions, these writ petitions are disposed of.

Consequently, connected petitions are closed. No costs.

04.07.2025

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To

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

2. The Deputy Commissioner of Customs,
Docks-Admin Section,
Export Commissionerate,
O/o. The Commissioner of Customs,
Chennai-IV, Custom House,
No.60, Rajaji Salai,
Chennai - 600 001.

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