

**(2014) 07 MAD CK 0204****Madras High Court****Case No:** Writ Petition No. 7915 of 2014 and M.P. No. 1 of 2014

RSM Clearing Services Pvt. Ltd.

APPELLANT

Vs

Commr. of Cus. (Import)

RESPONDENT

**Date of Decision:** July 3, 2014**Citation:** (2014) 309 ELT 639**Hon'ble Judges:** B. Rajendran, J**Bench:** Single Bench**Judgement**

@JUDGMENTTAG-ORDER

B. Rajendran, J.

The petitioner has filed this writ petition challenging the order, dated 14-2-2014 of the respondent, by which the respondent ordered for continuation of suspension of the licence of the petitioner as custom broker and directed the petitioner to surrender the original licence book and all customs ID cards issued to them to Custom Broker's Section forthwith. According to the petitioner, the petitioner firm has been issued with the customs broker licence by the respondent and based on such licence, the petitioner firm is authorised to function as a customs broker for handling and processing import and export documents filed by various importers. While so, during the course of such business activity, on behalf of the petitioner firm, certain bills were filed in the name of M/s. V.J. Enterprises, Chennai, as importers of clearance of imported Lime Stone Powder from Malaysia. Such clearance were investigated by the Directorate of Revenue Intelligence and it was alleged that there were duty evasion. In this context, the statement of the importers as well as the petitioner firm were recorded. It was alleged by the Directorate of Revenue Intelligence that one Mr. Maninder Singh handled those documents, which was not in accordance with the provisions of Customs House Agents Licensing Regulations, 2004. It was further alleged that the petitioner firm has aided/abetted the importers in evasion of duty and therefore, the petitioner is liable for penalty in terms of the provisions of the Customs Act. Therefore, after conclusion of the

investigation, a show cause notice, dated 25-11-2013 was issued to the importers as well as the petitioner firm in terms of Customs Act. As far as the petitioner is concerned, it was proposed to impose penalty. On receipt of the notice, the petitioner has submitted a detailed reply on 27-1-2014 and requested to afford an opportunity of hearing. While the petitioner was anticipating for a personal hearing, the respondent passed an order, dated 15-1-2014, suspending the licence issued to the petitioner by referring to the above events. After suspending the licence, an opportunity of hearing was given to the petitioner on 21-1-2014 in which the petitioner firm also participated and reiterated that they have nothing to do with the transaction relating to alleged duty evasion. Thereafter, the impugned order, dated 14-2-2014 was passed by the respondent ordering to continue the suspension of licence. Aggrieved by the same, the present writ petition has been filed by the petitioner.

2. The learned Senior counsel appearing for the petitioner would submit that in identical matter, in view of the Tribunal being constituted, this Court in W.P. No. 6748 of 2014, dated 11-6-2014, directed the petitioner to file an appeal before the Appellate Tribunal and till the filing of the said appeal by the Tribunal, the impugned order was stayed and the respondent was directed not to take any coercive steps. Therefore, the learned senior counsel would pray for a similar order in this matter also. In view of the above, the writ petition is disposed of with the observation that the petitioner shall prefer an appeal before the Appellate Authority as against the order, dated 14-2-2014 passed by the respondent, within a period of three weeks from the date of receipt of a copy of this order. Till such time, the respondent shall not take any coercive steps for collection by the order, dated 14-2-2014. It is made clear that any observations made in this writ petition need not be taken into consideration by the Appellate Tribunal at the time of the appeal and that the appeal shall be disposed of on its own merits and in accordance with law, as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.