

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Special Original Jurisdiction )

Friday, the Nineteenth day of January Two Thousand Eighteen

PRESENT

THE HON'BLE MR.JUSTICE .T.S.SIVAGNANAM

WP No.1156 of 2018

M/S.SHAPOORJI PALLONJI [ PETITIONER ]  
INFRASTRUCTURE CAPITAL CO. LTD., SREYAS  
VIRAT 14, 1ST FLR, 3RD CROSS RD, RAJA  
ANNAMALAIPURAM, CH-28, REP. BY AUTHORIZED  
SIGNATORY K.VENKAT RAO

VS

1 UNION OF INDIA, [ RESPONDENTS ]  
THROUGH SECRETARY, MINISTRY OF FINANCE NORTH  
BLOCK, NEW DELHI-110 001.

2 DIRECTOR GENERAL,  
DIRECTORATE GENERAL OF SAFEGUARDS CUSTOMS &  
CENTRAL EXCISE, 2ND FLR, BHAI VEER SINGH  
SAHITYA SADAN, BHAI VEER SINGH MARG, GOLE  
MARKET, NEW DELHI-1.

Writ petitions under article 226 of the Constitutions of India praying that in these circumstances stated therein and in the respective affidavits filed their with the High Court will pleased to

issue a Writ of Certiorari or a writ, order or Direction in the nature of a writ of certiorari Calling for the records in the impugned preliminary finding notice bearing Reference F.No.22011/68/2017 dated 05.01.2018 issued by the 2nd respondent and quash the same as illegal, arbitrary, without authority of law and in contravention of the Customs Tariff Act, 1975 read with the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules 1997 and also unconstitutional, being, inter alia, in violation of the principles of natural justice in WP No.1156 of 2018.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.SUJIT GHOSH, Advocate for M/S.ARUN KARTHIK MOHAN, Advocate for the petitioner and of MR.A.P.SRINIVAS, Senior Panel Counsel for 1<sup>st</sup> Respondent and of Mr.Rabu Manohar, Senior Panel Counsel on behalf of the 2<sup>nd</sup> Respondents the court made the following order:-



Heard Mr.Sujit Ghosh, learned counsel appearing for Mr.Arun Karthik Mohan, learned counsel on record for the petitioner.

2. The challenge in this writ petition is to the preliminary findings rendered by the second respondent as being illegal, arbitrary, without authority of law and in contravention of the Customs Tariff Act, 1975 read with Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997.

3. The first and foremost contention raised by the petitioner is that the impugned proceedings are in violation of the principles of natural justice in as much as the second respondent issued the notice of initiation of a safeguard investigation dated 19.12.2017 and granted 30 days' time from date of the said notice to all interested parties to make their views known on the subject issue. It is further submitted that much prior to the expiry of the period of 30 days, the impugned preliminary findings have been rendered, which is contrary to the procedure stipulated under Rule 6 of the said Rules.

4. It is pointed out that the petitioner, who is an interested party, is entitled to be heard in the matter and without hearing the petitioner and other interested persons, the impugned notification could not have been passed. It is also submitted that Section 8B(2) of the said Act empowers the Central Government, pending determination of the duty under Sub-Section (1) of Section 8B of the said Act, to impose the provisional safeguard duty on the basis of preliminary determination that increased imports have caused or threatened to cause serious injury to a domestic industry and that there is no power to grant exemption as has been done in the impugned notification.


5. Thus, this Court is satisfied that the petitioner has made out a prima facie case for consideration.

6. Mr.A.P.Srinivas, learned Senior Panel Counsel accepts notice for the first respondent. Mr.Rabu Manohar, learned Senior Panel Counsel accepts notice for the second respondent and submits that the learned Additional Solicitor General has been instructed to appear in this matter and seeks time to get instructions from the second respondent and place their submissions. List on 02.2.2018. Till then, the status quo, which is prevailing as on date, shall continue and no further precipitative action shall be taken pursuant to the impugned preliminary findings.

-sd/-

19/01/2018

/ TRUE COPY /

 19-01-18  
Sub-Assistant Registrar ( Statistics / C.S. )  
High Court, Madras - 600 104.



~~Mr. Ravi Manohar, learned Senior Panel Counsel~~  
TO

1 UNION OF INDIA,  
THROUGH SECRETARY, MINISTRY OF FINANCE NORTH  
BLOCK, NEW DELHI-110 001.

2 DIRECTOR GENERAL,  
DIRECTORATE GENERAL OF SAFEGUARDS CUSTOMS &  
CENTRAL EXCISE, 2ND FLR, BHAI VEER SINGH  
SAHITYA SADAN, BHAI VEER SINGH MARG, GOLE  
MARKET, NEW DELHI-1.

C.C. to M/S.ARUN KARTHIK MOHAN Advocate SR.No.688  
The Government Advocate, High Court, Madras - 104.

Order

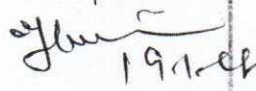
in  
WP.1156/2018

Date :19/01/2018

From 26.2.2001 the Registry is issuing certified  
copies of the Interim Orders in this format  
VC (19/01/2018)

WP NO: 1156 / 2018.

HIGH COURT OF JUDICATURE MADRAS	
S.R. NO.	688 / 2018
Carbon copy application made	19/01/2018
Application Returned	.....20
Application Represented	.....20
Copy made ready	19/01/2018
Copy delivered	19/01/2018

  
19.1.18