

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WP(C).No. 2275 of 2015 (H)

PETITIONER :

**M/S.DOVES INTERNATIONAL,
REPRESENTED BY ITS PROPRIETOR UMESH KUMAR PARASHAR
40/8, EAST PATEL NAGAR, NEW DELHI**

**BY ADVS.SRI.P.RADHAKRISHNAN (1)
SRI.MADHU RADHAKRISHNAN
SRI.NELSON JOSEPH
SRI.M.D.JOSEPH**

RESPONDENTS :

- 1. UNION OF INDIA
REPRESENTED BY ITS SECRETARY,
MINISTRY OF HEALTH & FAMILY WELFARE
GOVERNMENT OF INDIA, NEW DELHI - 110 001.**
- 2. AUTHORISED OFFICER,
COCHIN SEA PORT & AIR PORT FOOD SAFETY &
STANDARDS AUTHORITY OF INDIA MINISTRY OF HEALTH
AND FAMILY WELFARE GOVERNMENT OF INDIA 1ST FLOOR
MARINE BUILDING, NORTH END WILLINGDON ISLAND
COCHIN - 682 009**
- 3. COMMISSIONER OF CUSTOMS,
CUSTOMS HOUSE, WILLINGDON ISLAND, COCHIN 682 009**

**R1 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R2 BY ADVS. SRI.MEHMOOD PRACHA
SRI.PAUL JACOB
R3 BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SC,**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF BILL OF ENTRY DATED 29.12.2014 NO. 7841168 FILED BY THE PETITIONER.
- P2: TRUE COPY OF THE BILL OF ENTRY DATED 29.12.2014 NO.7841169 FILED BY THE PETITIONER.
- P3: TRUE COPY OF THE BILL OF ENTRY DATED 29.12.2014 NO. 784 1171 FILED BY THE PETITIONER
- P4: TRUE COPY OF THE BILL OF ENTRY DATED 29.12.2014 NO. 7841174 FILED BY THE PETITIONER.
- P5: TRUE COPY OF THE EXAMINATION ORDER DATED 30.12.2014.
- P6: TRUE COPY OF THE EXAMINATION ORDER DATED 30.12.2014.
- P7: TRUE COPY OF THE EXAMINATION ORDER DATED 30.12.2014.
- P8: TRUE COPY OF THE EXAMINATION ORDER DATED 29.12.2014.
- P9: TRUE COPY OF THE PLANT QUARANTINE CERTIFICATE DATED 13.1.2015 (IMPORT RELEASE ORDER)
- P10: TRUE COPY OF THE PLANT QUARANTINE CERTIFICATE DATED 13.1.2015 (IMPORT RELEASE ORDER)
- P11: TRUE COPY OF THE PLANT QUARANTINE CERTIFICATE DATED 13.1.2015 (IMPORT RELEASE ORDER)
- P12: TRUE COPY OF THE PLANT QUARANTINE CERTIFICATE DATED 13.1.2015 (IMPORT RELEASE ORDER)
- P13: TRUE COPY OF THE JUDGMENT DATED 15.10.2014 IN WP(C) 20920/2014.
- P14: TRUE COPY OF THE JUDGMENT DATED 4.12.2014 IN WP(C) 32484/2014.
- P15: TRUE COPY OF THE JUDGMENT DATED 19.12.2014 IN WP(C) 34542/2014

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

P.R. RAMACHANDRA MENON J.

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Dated, this the 28th day of January, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

- a) declare that the raw un-garbled betel nuts imported by the petitioner does not attract the provisions of Food Safety and Standards Act2008 and Rules and Regulations thereunder.
- b) issue a writ of certiorari or other appropriate writ order or direction calling for the records leading to examination order in Ext. P5 to P8 and quash the conditions in them mandating testing and obtaining No Objection Certificate from FSSAI, for clearance raw betel nuts.
- c) issue a writ of mandamus directing the 3rd respondent to release the consignments under Exts. P1 to P4 bill of entries on the basis of Ext. P9 to Ext. P12 test results.
- d) issue a writ of mandamus directing the 3rd respondent to release all the consignments of the petitioner on passing the Plant Quarantine Test in future without

mandating testing and obtaining No Objection Certificate under Food Safety and Standards Act, 2006 and Rules and Regulations thereunder.

e) Issue such other appropriate writ, order or direction as this Hon'ble Court deems fit and proper in the circumstances of the case.

f) To award the costs of the writ petition.

2. The learned counsel for the petitioner submits that the issue involved in this case is squarely covered by Ext. P13 judgment dated 15.10.2014 in W.P.(C) Nos. 11763 of 2013 and connected cases, whereby it has been held that there are no standards for betel nuts under the Food Safety and Standard Act, 2008 and in the absence of standards under the Act, the authority shall follow the standards of 'codex alimentarius', if any, and that in the absence of prescription of standards therein, to take precautionary measures under the sanitary and phytosanitary measures (SPS agreement). It is also held that the applicant cannot be refused with the release of goods without forming an opinion that the consignment, even after undergoing some other processes cannot be made fit for human consumption. Exts. P9 to P12 are the plant quarantine certificates issued in terms of Clause 3 (16) of Plant Quarantine (Regulation of Import into India)

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: 3 :

Order 2003 and under Section 3 (1) of the Destructive Insects & Pests Act, 1914, recommending release of the goods imported.

In the said circumstances, there will be a direction to the third respondent to release the consignments under Exts. P1 to P4 bill of entries, on the basis of Ext. P9 to Ext. P12 test results, within a period of three days from the date of receipt of a copy of this judgment.

The Writ Petition is disposed of. No cost.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

kmd