

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON**

**WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936**

**WP(C).No. 7698 of 2015 (J)**  
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**PETITIONER:**  
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**M/S.BHARATH SUPARI TRADERS,  
REPRESENTED BY ITS PARTNER ABOOBACKER MUNEER,  
D.NO.20-2-173/3 ,  
CENTRAL COMMITTEE COMPLEX AZEEZUDDIN ROAD, BUDER  
MANGALORE - 575 001.**

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

**RESPONDENT(S):**  
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- 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 & AIRPORT 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 ADV. MEHMOOD PRACHA  
SRI.PAUL JACOB  
R3 BY ADV. SRI.JOHN VARGHESE,SC,CEN.BOARD OF EXCIS  
SRI.THOMAS MATHEW NELLIMOOTIL,SC,CB EX**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**vmr.**

**WP(C).No. 7698 of 2015 (J)**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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**EXHIBIT P1: TRUE COPY OF BILL OF ENTRY DATED 16/02/2015 BEARING NO.8310411  
FILED BY THE PETITIONER.**

**EXHIBIT P2: TRUE COPY OF THE EXAMINATION ORDER DATED 27/2/2015**

**EXHIBIT P3: TRUE COPY OF THE PLANT QUARANTINE CERTIFICATE DATED 3/3/2015  
(IMPORT RELEASE ORDER)**

**EXHIBIT P4: TRUE COPY OF THE JUDGMENT DATED 15/10/2014 IN WPC 20920/2014.**

**EXHIBIT P5: TRUE COPY OF THE JUDGMENT DATED 3/12/2014 IN WPC 32484/2014**

**EXHIBIT P6: TRUE COPY OF THE JUDGMENT DATED 19/12/2014 IN WPC 34542/2014**

**EXHIBIT P7: TRUE COPY OF THE JUDGMENT DATED 28/1/2015 IN WPC 2275/2015**

**RESPONDENT(S)' EXHIBITS : NIL**  
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**/TRUE COPY/**

**P.A.TO JUDGE**

**vmr.**

**P.R. RAMACHANDRA MENON, J.**

.....  
**W.P.(C)No.7698 OF 2015**  
.....

**Dated this the 18<sup>th</sup> March, 2015**

**J U D G M E N T**

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 Act, 2006 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. P2 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 3<sup>rd</sup> respondent to release the consignments under Ext. P1 bill of entry on the basis of Ext. P3 test result.*
- d) issue a writ of mandamus directing the 3<sup>rd</sup> 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'be 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. P4 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, 2006 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. Ext. P3 is the plant quarantine certificate issued in terms of Clause 3 (16) of Plant Quarantine (Regulation of Import into India) Order 2003 and under Section 3 (1) of the Destructive Insects & Pests Act, 1914, recommending release of the goods imported.

3. In the said circumstances, there will be a direction to the third respondent/Commissioner of Customs to release the consignments under Ext. P1 bill of entry, on the basis of Ext. P3 test result, 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.

**P.R.RAMACHANDRA MENON**  
**JUDGE**

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