

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 10825 of 2015 (C)

PETITIONER :

**M/s. V.S. EXPORTS & IMPORTS,
52 - 1/11, SELVAPURAM, ANUR ROAD,
MeTTUPALAYAM, PIN - 641 301
REPRESENTED BY ITS PROPRIETOR, MR. V. SIVAKUMAR.**

**BY ADVS. SRI.V.M. KURIAN
SRI. MATHEW B. KURIAN
SRI. K.T. THOMAS
SRI. ISAC T. PAUL**

RESPONDENTS :

- 1. THE COMMISSIONER OF CUSTOMS
CUSTOM HOUSE, WILLINGDON ISLAND, COCHIN,
PIN - 682 009.**
- 2. THE SUPERINTENDENT OF CUSTOMS
CUSTOM HOUSE, WILLINGDON ISLAND, COCHIN,
PIN - 682 009.**
- 3. THE AUTHORISED OFFICER
COCHIN SEAPORT AND AIRPORT FOOD SAFETY
AND STANDARDS AUTHORITY OF INDIA,
1ST FLOOR, MARINE BUILDINGS, NORTH END,
WILLINGDON ISLAND, COCHIN, PIN - 682 009.**

**R1 & 2 BY ADV. SRI. JOHN VARGHESE,SC, CENTRAL BOARD OF
EXCISE
BY SRI. THOMAS MATHEW NELLIMOOTTIL**

BY SENIOR GOVERNMENT PLEADER : SRI JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 10825 of 2015 (C)

APPENDIX

PETITIONERS' EXHIBITS

**EXT. P1 : TRUE PHOTOCOPY OF THE COMMERCIAL INVOICE DATED
11.03.2015**

**EXT. P2 : TRUE PHOTOCOPY OF THE CERTIFICATE OF ORIGIN DATED
11.03.2015 ISSUED BY THE DEPARTMENT OF COMMERCE,
GOVERNMENT OF SRILANKA.**

EXT. P3 : TRUE PHOTOCOPY OF THE BILL OF ENTRY DATED 26.03.2015

**EXT. P4 : TRUE PHOTOCOPY OF THE PHYTOSANITARY CERTIFICATE DATED
11.03.2015 ISSUED BY THE DEPARTMENT OF AGRICULTURE,
GOVERNMENT OF SRILANKA.**

**EXT. P5 : TRUE PHOTOCOPY OF THE IMPORT RELEASE ORDER DATED
27.03.2015 ISSUED BY THE MINISTRY OF AGRICULTURE,
GOVERNMENT OF INDIA.**

**EXT. P6 : TRUE PHOTOCOPY OF THE EXAMINATION ORDER DATED
27.03.2015 PERTAINING TO B.E. No. 8720310.**

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

PA TO JUDGE

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P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.10825 of 2015

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Dated this the 8th day of April, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"(i) issue appropriate writ of mandamus or other appropriate writ or order directing respondents 1 and 2 to clear the goods covered by Ext.P3 Bill of Entry without insisting on NOC from the 3rd respondent under the Food Safety and Standards Act,2006;

b) Issue a writ of certiorari or other appropriate writ, order or direction quashing Ext.P6 inasmuch as it stipulates production of NOC from the 3rd respondent."

2. Heard both the sides.

3. During the course of hearing, it is brought to the notice of this Court that the issue had come up for consideration in a number of cases earlier and a common judgment was passed on 06.04.2015 in W.P.(C).No.8773/2015 and connected cases. The relevant portions of the said judgment are extracted below for the purpose of convenience:-

"7. After hearing both the sides, this Court finds that in view of the law declared by a Division Bench of this Court, as above and in view of the observation made by the learned Single Judge in Ext.P4, appropriate test has to be conducted in respect of foods stuffs which includes the betel nuts as well, though

proper test is not mentioned under FSS Act. This has to be done by the competent authority, taking note of the observations as mentioned in the above judgment.

8. In the said circumstance, the writ petitions are disposed of, in terms of the verdict passed by the Division Bench of this Court in W.A.No.1317 of 2014. The third respondent/Commissioner of Customs shall forward the proceedings to the second respondent/Food Safety & Standards Authority of India forthwith at any rate, within 'one week' from the date of receipt of a copy of the judgment, with all the relevant particulars and arrange an inspection by the second respondent/Food Safety & Standards Authority of India, who in turn shall consider the matter in the light of the observation made by the Division Bench as above and issue necessary proceedings within 'two weeks' thereafter. The petitioners shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps."

This matter can also be disposed of in terms of the said judgment. Accordingly, this writ petition is disposed of in terms of the said judgment. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps.

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