IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

WP(C).No. 16058 of 2015 (F)

PETITIONER :

MARYGO INTERNATIONAL
19/1595-C, AMBALAPALLY BUILDING, VATTAMPOYIL,
KALLAI ROAD, KOZHIKODE, KERALA - 673 003.

BY ADVS.SRI.ASWIN GOPAKUMAR
SRI.ANWIN GOPAKUMAR
SMT.KALA G.NAMBIAR
SRI.K.AMAL NATH NAIK
SRI.ARJUN RADHAKRISHNAN NAIR
SMT.ANUSREE SURESH
SMT.DEEPTI SUSAN GEORGE

RESPONDENT(S):

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1. THE COMMISSIONER OF CUSTOMS,
CUSTOM HOUSE, WELLINGDON ISLAND,
COCHIN - 682 009.

2. ASSISTANT COMMISSIONER (IMPORTS),
GROUP 7, CUSTOM HOUSE, WELLINGDON ISLAND,
COCHIN - 682 009.

R1 & R2 BY ADV. SRI.JOHN VARGHESE,SC,CEN.BOARD OF EXCIS
SRI.THOMAS MATHEW NELLIMOOTTIL,SC,CB EX

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 16058 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - TRUE COPY OF THE COMMERCIAL INVOICE DATED 28.01.2015

P2 - TRUE COPY OF THE PACKING LIST DATED 28.01.2015

P3 - TRUE COPY OF THE BILL OF ENTRY NO.8646520 DATED 19.03.2015

P4 - TRUE COPY OF THE E-RECEIPT FOR PAYMENT OF DUTIES OF CUSTOMS

P5 - TRUE COPY OF THE APPEAL BEFORE THE COMMISSIONER OF CUSTOMS (APPEALS)

P6 - TRUE COPY OF THE COMMERCIAL INVOICE DATED 28.04.2015 RAISED BY THE FOREIGN VENDOR.

P7 - TRUE COPY OF THE PACKING LIST DATED 28.04.2015

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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W.P.(C) No.16058 of 2015

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Dated this the 2nd day of June, 2015

JUDGMENT

The petitioner approached this Court on account of non-release of the goods imported as per Exts.P6 and P7.

2. Learned Standing Counsel, on instructions, would submit that goods are unaccompanied by bills of entry.

3. The petitioner's case is that the vendor by mistake entered the date in the invoice as 28.4.2015 instead of 24.4.2015 and the goods mentioned in Exts.P6 and P7 are one and the same as per the bills of entry produced before the Customs Authority. It is submitted that invoices have been collected by the vendor and re-submitted before the Customs Authority. Therefore, it is submitted that goods referred in Exts.P6 and P7 are related to the bills of entry already submitted before the Customs Authority.

In such circumstances, I am of the view; it is for the Customs Authority be satisfied to find whether the bills of entry corresponds with the goods imported by the Vendor. On being satisfied that the goods are accompanied by the valid bills of entry, necessarily, on request made by the petitioner in terms of Section 18 of the Customs Act, the goods shall be released to the petitioner with such terms and conditions. The petitioner have to make their request before the Customs Authority today itself. If such a request is made, the Custom Authority shall process the application, as expeditiously as possible, at any rate, within one week from today. It is apprehended that if any further delay in this matter, will result in saddling liability of the demurrages. If that be so, the Custom Authority shall also bear-in-mind the urgency in the matter while taking a decision. Therefore, if it is possible, such decision shall be taken at the earliest to avoid any liability being mulcted on the writ petitioner regarding demurrages.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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