

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

WP(C).No. 23540 of 2015 (N)

PETITIONER(S):

**KALYAN SILKS TRICHUR PRIVATE LIMITED,
A COMPANY REGISTERED UNDER THE COMPANIES ACT,
1956, HAVING ITS REGISTERED OFFICE AT 4/621/2,
KURIACHIRA P.O, THRISSUR DISTRICT, PIN - 680 006,
REPRESENTED BY ITS MANAGER SRI.RAVI KAMATH.**

**BY ADVS.SRI.ASWIN GOPAKUMAR,
SRI.ANWIN GOPAKUMAR,
SRI.ARJUN RADHAKRISHNAN NAIR,
SMT.ANUSREE SURESH.**

RESPONDENT(S):

- 1. COMMISSIONER OF CUSTOMS,
CUSTOM HOUSE, WILLINGDON ISLAND,
COCHIN - 682 009.**
- 2. THE DEPUTY COMMISSIONER OF CUSTOMS,
CUSTOM HOUSE, WILLINGDON ISLAND, COCHIN - 682 009.**

**R1 & R2 BY ADVS. SRI.SAIBY JOSE KIDANGOOR,
SRI.THOMAS MATHEW NELLIMOOTTIL.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1 - TRUE COPY OF THE LATEST EPCG LICENCE DATED 30/07/2015 ISSUED TO THE PETITIONER BY THE JDGFT, COCHIN.**
- P2 - TRUE COPY OF THE COMMERCIAL INVOICE FOR VITRIFIED TILES DATED 28/05/2015 RAISED ON THE PETITIONER BY THE FOREIGN VENDOR IN HONG KONG.**
- P3 - TRUE COPY OF THE APPLICATION FOR AUTHORISATION UNDER EPCG SCHEME DATED 10.07.2015 SUBMITTED BY THE PETITIONER TO THE JDGFT, COCHIN.**
- P4 - TRUE COPY OF THE REQUEST FOR PROVISIONAL CLEARANCE OF IMPORT GOODS UNDER SECTION 18 OF THE CUSTOMS ACT, 1962 DATED 30.07.2015 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.23540 of 2015

Dated this the 6th day of August, 2015

JUDGMENT

The petitioner is a company engaged in textile articles. They have issued with licence under the Export Promotion Capital Goods (EPCG) Scheme in terms of Chapter 5 of the Foreign Trade Policy. They have applied for authorization in respect of an import consignment of Vitrified Tiles, to have the benefit of EPCG Scheme. They say that they came to about rejection of authorization only after the import of Vitrified Tiles. Therefore, they filed an appeal before the Joint Directorate General of Foreign Trade(JDGFT). They also approached the second respondent to release the Vitrified Tiles on provisional basis based on executing a bond. They have approached this Court alleging non-consideration of their request.

2. Learned Standing Counsel opposes the prayer of the petitioner and submits that the petitioner moved on the same day, on which he approached the Authority for release the goods. It is

submitted that such practice has to be deprecated. It is further submitted that they considered the matter without any delay and asked the petitioner to comply with Notification 16/2015. The learned Standing Counsel also placed before me the reply issued by the second respondent on 4.8.2015.

3. This Court is of the view that the stand of the second respondent is perfectly justifiable under the facts and circumstances. The second respondent only demanded compliance of the proceedings under Notification 16/2015 as a duty bound officer. Certainly, in such circumstances, when there is no authorization, the officer is entitled to demand compliance of Notification 16/2015. Nevertheless, this Court is of the view, in view of the fact that the petitioner has already approached Appellate Authority- JDGFT, the goods shall be released to the petitioner on executing a simple bond and also giving an undertaking that in the event of rejection of appeal by the JDGFT they will pay the duty as per the demand.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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