IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 24.4.2015.

CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P.Nos.5496 of 2015 and 28730 of 2014
and
M.P.Nos.1 to 4 of 2014 in
W.P.No.28730 of 2014

W.P.No.5496 of 2015

Vasta Biotech Pvt. Ltd.
SVN House
10 C.P.Ramaswamy Aiyar Road
Alwarpet Chennai 600 018
Rep. by Mrs. Subha Srikanth. Petitioner

vs.

1 Commissioner of Customs
Airport and Air Cargo Complex
Meenambakkam
Chennai 600 027.

2 Food Safety and Standards
Authority of India
Ministry of Health and
Family Welfare C-1-D
Rajaji Bhawan Besant Nagar
Chennai 600 090. Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the 1st Respondent to forthwith consider and pass appropriate orders on the petitioners representation dated 03.02.2015 for facilitating re-export of the consignment bearing DHA S35-O100 (Docosahexaenoic acid) under the Bill of Entry bearing B.E.No.7119443 dated 20.10.2014 back to the suppliers/Principal M/s.DSM Nutritional Products USA.

For Petitioner : Mr.Vishnumohan

For R1 : Mr.A.P.Srinivas
For R2 : Mr.K.Surendranath

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W.P.No.28730 of 2014

Vasta Biotech Pvt. Ltd.
SVN House
10 C.P.Ramaswamy Aiyar Road
Alwarpet Chennai 600 018 Petitioner

vs.

1 Food Safety and Standards
Authority of India
Ministry of Health and
Family Welfare C-1-D
Rajaji Bhawan Besant Nagar
Chennai 600 090.
rep. by Authorised Officer,
Chennai Seaport and Airport.

2. Director General of Foreign Trade
Ministry of Commerce & Industry
Government of India
Udyog Bhawan New Delhi

3 Department of Customs
Government of India Ministry of Finance
Department of Revenue
Custom House 60 Rajaji Salai
Chennai 600 001 Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records comprised in the order bearing F.No.307/2014/FASSAI/CHN- IMPORT and dated 28.10.2014 passed by the 1st respondent and quash the same and consequently direct the 1st respondent to consider grant of clearance for the consignment after taking into account all relevant documents including the Certificate of Analysis from the Manufacturer to determine the 'best before use date'.

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For Petitioner : Mr.Vishnumohan

For R1 : Mr.K.Surendranath
For R3 : Mr.A.P.Srinivas

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COMMON ORDER

Writ Petition No.5496 of 2015 has been filed seeking issuance of a writ of mandamus directing the 1st Respondent to forthwith consider and pass appropriate orders on the petitioners representation dated 03.02.2015 for facilitating re-export of the consignment bearing DHA S35-O100 (Docosahexaenoic acid) under the Bill of Entry bearing B.E.No.7119443 dated 20.10.2014 back to the suppliers/Principal M/s.DSM Nutritional Products USA.

2. Writ Petition No.28730 of 2014 has been filed seeking issuance of a certiorarified mandamus calling for the records comprised in the order bearing F.No.307/2014/FASSAI/CHN- IMPORT and dated 28.10.2014 passed by the 1st respondent and quash the same and consequently direct the 1st respondent to consider grant of clearance for the consignment after taking into account all relevant documents including the Certificate of Analysis from the Manufacturer to determine the 'best before use date'.

3. This court, on 3rd November 2014, passed an interim direction to the respondents to permit the petitioner to shift the material to a private storage stating that the goods shall not be taken out for sale or marketing until further order of this court.

4. Now, the learned counsel appearing for the petitioner brings to the notice of this court a proceedings dated 21.4.2015 passed by the Additional Commissioner of Customs (Group 1-4) stating that the request of the petitioner was accepted for re-export of the subject goods. The relevant portion of the said order reads thus:-

> "(i) I confiscate the offending goods valued at Rs.25,70,371.65/- imported by M/s.Vasta Biotech Pvt. Ltd., SVN House, No.10, C.P.Ramaswamy Aiyar Road, Alwarpet, Chennai 600 018 vide Bill of Entry No.7119443 dated 20.10.2014 in terms of Section 111(d) of the Customs Act, 1962 read with provisions of the Food Safety and Standards Act, 2006.
>
> (ii) I give an option to the importer to redeem the goods on payment of redemption fine of Rs.2,00,000/- (Rupees Two Lakhs only) under Section 125 of Customs Act, 1962 for the purpose of re-export only.
>
> (iii) I also impose a personal penalty of Rs.50,000/- (Rupees Fifty thousand only) on the importer under section 112(A) of Customs Act, 1962 for having rendered the goods liable for confiscation."

5. In view of the above, the petitioner sought to withdraw both the writ petitions. He has also made a request that since this court has already passed an interim direction to the respondent to

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permit the petitioner to shift the materials to a private storage, the said order may be extended till such time, the petitioner re-exports the goods.

6. Accordingly, both the writ petitions are dismissed as withdrawn. The above said direction will continue till such time the goods are re-exported as per the above said proceedings dated 21.4.2015. Needless to mention that the re-export shall be done under the supervision of the respondent-Customs authorities. No costs. The connected miscellaneous petitions are also dismissed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

ssk.

To

1. Director General of Foreign Trade
Ministry of Commerce & Industry
Government of India
Udyog Bhawan New Delhi

2 Department of Customs
Government of India Ministry of Finance
Department of Revenue
Custom House 60 Rajaji Salai
Chennai 600 001

3. The Commissioner of Customs
Airport and Air Cargo Complex
Meenambakkam Chennai 600 027.

4 Food Safety and Standards Authority of India
Ministry of Health and
Family Welfare C-1-D Rajaji Bhawan Besant Nagar
Chennai 600 090.

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1 cc to Mr.Satish Parasaran, Advocate, sr. 23163
1 cc to Mr.A.P. Srinivas, Advocate, sR. 22693
1 cc to Mr.Surendranath, Advocate, Sr. 23021

W.P.Nos.5496 of 2015
and 28730 of 2014

TEJ (CO)
kk 21/5

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