IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2015

CORAM:

THE HONOURABLE Mr.JUSTICE.R.MAHADEVAN

W.P.No.5611 of 2015

Binny Ltd
Rep. by its Chief Financial Officer &
Company Secretary
Mr.T.Krishnamurthy
1 Cooks Road Perambur Chennai-12. ... Petitioner

Vs

1. The Chief Commissioner of
Customs (Imports)
Custom House
No.60 Rajaji Salai Chennai-1.

2. The Commissioner of Customs
Chennai V & VIII Commissionerate
Custom House No.60 Rajaji Salai Chennai-1.

3. The Additional Director General
Directorate of Revenue Intelligence
25 Gopalakrishna (Iyer)Road T.Nagar
Chennai-17. ... Respondents

Writ petition has been filed under 226 of the Constitution of India for the issuance of writ of mandamus directing the respondents herein to remove the 23 consignments listed in the Annexure herein from the petitioner premises forthwith.

For Petitioner : Mr.S.Murugappan

For Respondents : Mr.A.P.Srinivas, Standing Counsel for R1 & 2
Mr.Velayutham, SPCCG

ORDER

This writ petition has been filed by the petitioner seeking a writ of mandamus directing the respondents herein to remove the 23 consignments listed in Annexure, from the petitioner premises forthwith.

2.1 The learned counsel appearing for the petitioner submitted that petitioner Company, after obtaining permission and approval from the Ministry of Commerce, Government of India, started functioning as a Container Freight Station (CFS) for receipt of import as well as export cargo with effect from July, 1999, in terms of Section 45 of the Customs Act, 1962. The Deputy Commissioner of Customs (Bonds) working under the 2nd respondent, was required to periodically grant renewal of the warehouse license and the last such renewal was granted to the petitioner Company upto 22.05.2013.

2.2. The learned counsel for the petitioner would further submit that due to various operational reasons and practical difficulties faced by the petitioner Company in moving the cargo, they could not operate the CFS smoothly. Hence, the petitioner Company submitted a letter dated 28.10.2011 to the 2nd respondent to cancel the license issued to them for the operation of CFS. In the meantime, they have stopped movement of the import containers as well as the goods meant for export and gradually the cargo lying in the CFS was liquidated. However, 23 consignments, relating to the import/export seized by the customs authorities are still lying in the petitioner's premises.

2.3 Adding further, learned counsel for the petitioner would submit that by a communication dated 20.06.2012, the petitioner Company took up the matter with the Ministry of Commerce and Industry, which cancelled the initial approval given to the petitioner Company with effect from 18.05.2012.

2.4 According to the learned counsel for the petitioner, as of now, the petitioner Company does not have the CFS status and also any bonded warehouse license and hence, as per the provisions of the Customs Act, 1962, the goods lying in the petitioner's premises as on date, cannot continue to remain there.

2.5. That apart, the learned counsel for the petitioner would submit that though a number of representations were given to the respondents right from the year 2012, requesting them to remove the goods lying in their premises, neither they have taken possession of the same nor disposed them off in accordance with law.

2.6 Besides, according to the learned counsel for the petitioner, many of the consignments have already been confiscated by the authorities several years back. Therefore, as per Section 126 of the Customs Act, 1962, upon confiscation, the property becomes the Central Government property and the officer adjudging the confiscation is required to take possession of the confiscated goods.

2.7. It is the contention of the learned counsel for the petitioner that non removal of 23 consignments from the petitioner's premises is not in accordance with law and hence he sought for a direction to the respondents to remove the said 23 consignments listed in the Annexure from the petitioner's premises forthwith.

3. Heard the learned counsel on either side and perused the materials available on record.

4. After confiscation of the goods by the authorities, the goods are kept unnecessarily in the warehouse belonging to the petitioner. Repeated representations of the petitioner have never been considered, which lead them to file this writ petition. After confiscation of the goods, the respondents have neither taken proper action for auctioning the goods nor kept them under safe custody. Therefore, there is no justifiable reason for retaining the same in the place belonging to the petitioner company, which had lost the status of CFS.

5. Hence, the respondents are directed not only to consider and pass orders on the representation of the petitioner dt.20.1.2015, but also to take a positive decision either to auction the confiscated goods or otherwise to shift from the place of the petitioner. Such exercise shall be completed not later than twelve weeks from the date of receipt of a copy of this order.

The writ petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Commissioner of
   Customs (Imports)
   Custom House
   No.60 Rajaji Salai Chennai-1.

2. The Commissioner of Customs
   Chennai V & VIII Commissionerate
   Custom House No.60 Rajaji Salai Chennai-1.

3. The Additional Director General
   Directorate of Revenue Intelligence
   25 Gopalakrishna (Iyer)Road T.Nagar
   Chennai-17.

+1cc to Mr.S.Murugappan, Advocate, S.R.No.42720
+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.43026
+1cc to Mr.Velayuthum Pichaiya, Advocate, S.R.No.43683

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CTK(CO)
CA(01/09/2015)