

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.01.2015

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Writ Petition No.17913 of 2013

J.B.Khokhani & Co.,  
42/43, Keshav Baug, 3<sup>rd</sup> Floor,  
116, Princess Street,  
Mumbai-400 002  
Rep. by its Power of Attorney Holder  
Shri Navendra Trikmami

...Petitioner

Vs.

1. The Commissioner of Customs,
2. Asst.Commissioner of Customs (Gr-2),

Both at  
Customs House,  
No.60, Rajaji Salai,  
Chennai-600 001.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to the second respondent's letter dated 24-7-2012 bearing F.No.S.Misc.1098/2011-12 Gr-2, quash the same and consequently, direct the respondents to permit re-export of goods covered by bill of entry No.20583, dated 21.5.2009.

For Petitioner : Mr.Arvind P.Dattar, Senior Counsel  
for Mr.R.Raghavan

For Respondents : Mr. K.Ravindranath SCCG

ORDER

This Writ Petition has been filed, praying for the issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to the second respondent's letter dated 24-7-2012 bearing F.No.S.Misc.1098/2011-12 Gr-2, quash the same and consequently, direct the respondents to permit re-export of goods covered by bill of entry No.20583, dated 21.5.2009.

2. The petitioner is a licensed firm under the Drugs and Cosmetics Act, 1944 (in short, 'the Act') for the import of progesterone manufactured by one M/s.Zhejiang Shenzhou Pharmaceutical Company (in short, 'M/s.Zhejiang'), which has a registration certificate issued under Rule 27A of the Drugs and Cosmetics Rules, 1945.

3. In the course of business, the petitioner placed an order on Hong Kong Tiangao International Economic Development Corporation Ltd., (a foreign supplier) for one tone, out of which, a consignment of 600 kgs was duly cleared by the Customs authorities and the Drug Authorities and only the consignment of 400 kgs of progesterone, manufactured by Zhejiang, was held up. The relevant documents were sent by the foreign supplier to the petitioner's bank and the goods shipped by the foreign supplier were reached the Port of Chennai, whereupon the petitioner filed a bill of entry for clearance of the same. However, it appears that the said Zhejiang lodged a complaint dated 2.4.2009 before the Drugs Controller General of India and hence, the certificates referred to by the petitioner were sent to Zhejiang to verify the authenticity of the same.

4. While so, during the course of examination, the Assistant Drugs Controller, vide opinion dated 26.5.2009 stated that 'Zhejiang' is claimed as the manufacturer of the consignment as per the documents submitted by the petitioner while filing the Bill of Entry, however, the said Zhejiang has clarified to the respondents that the goods of the bill were neither produced nor supplied by them to the said foreign supplier and that the certificate of analysis, batch release certificate were not theirs and hence, the said documents were forged and fake. Thus, the material imported is not from a registered source as required under the Act and Rules. For this reason, the material was not permitted for release and it was detained. Thereafter, the petitioner requested for re-export of the consignment. However, by the impugned proceedings, dated 24.7.2012, the second respondent informed the petitioner that the permission for re-export of the consignment sought for by him, was denied. Challenging the same, the petitioner has come forward with the present writ petition.

5. A detailed counter affidavit has been filed by the respondents, wherein, it is stated that on receipt of requisition from the petitioner for re-export of the consignment, the matter was referred to the Assistant Drugs Controller, Chennai vide letter dated 17.11.2011, who in turn informed to the Customs House that the item imported 'Progesterone' imported under the Bill of entry No.220583, dated 21.5.2009 was found to be imported from an

unregistered source and hence, 'spurious' under Section 9B(e) of the Act and that the documents submitted by the imported were proved to be forged and fake. The Assistant Drug Controller, Chennai in his letter, dated 19.1.2011, stated that on the recommendations of the Ministry of Health & Family Welfare, the import was under the investigation of Central Bureau of Investigation (Economic Offences Wing, Chennai) and it was also clarified that subject goods may not be permitted for re-export and any further action on the goods could be initiated only after obtaining necessary permission from the Superintendent of Police, CBI-EOW, Chennai. By letter dated 10.4.2012, the Deputy Drugs Controller of India (South Zone), advised the respondents his office was in the process of launching prosecution against the importer/petitioner and requested that re-export of the cargo covered by the import consignment of 400 kgs of Progestrone should not be allowed. It was also informed by letter dated 23.7.2012 by the Deputy Drugs Controller, Chennai to the respondents that Drugs Controller General (India) has given permission to launch prosecution against the petitioner at appropriate Court at Chennai. It is also stated that the re-export envisaged in Rule 41 (1) of the Act applies only for re-export of sub-standard drugs declared by Director of Testing Laboratory only and not for spurious drugs and thereby, re-export cannot be made since the material is the evidence as part of the prosecution to be launched. It is stated that on 16.8.2012, prosecution proceedings have been launched against the petitioner for import of spurious drugs from unregistered sources before the XV Metropolitan Magistrate, George Town, Chennai. With these averments, the respondents sought for dismissal of the writ petition.

6. Heard the learned senior counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the entire record.

7. Assailing the impugned proceedings, Mr.Arvind P.Datar, learned senior counsel would foremost contend that the impugned decision of the second respondent in rejecting the claim of the petitioner for re-export the consignment in two lines without giving sufficient reasons for such rejection, is arbitrary and such a non-speaking decision cannot stand and is liable to be set aside. He also contended that the before taking such decision in refusing the permission to re-export the consignment, no opportunity was afforded to the petitioner, which violates the principles of natural justice. He pointed out that as per Rule 41 (1) of the Rules, the petitioner has a statutory right of re-export and the second respondent has not failed to consider the recommendation of the Assistant Drugs Controller, who by letter dated 2.6.2009, has given NOC for re-exporting the subject material

to the supplier, after collection of samples. He also contended that the petitioner had valid licence to import Progesterone manufactured by the said M/s.Zhejiang and the import was already form part of the subject matter of the investigation by the CBI, who already filed a charge sheet date 15.12.2010, which is pending for trial and the allegations made against the petitioner have yet to be proved and the petitioner was not served with any summons in respect of the prosecution thereof. He also contended that there is no need to detain the entire material for the purpose of marking as material object during the trial of the prosecution and it may be sufficient that a sample thereof may be retained for that purpose and the consignment can be permitted to re-export since the retention of the same is causing great prejudice to the petitioner since the funds of the petitioner to the extent of the invoice value of the goods has been blocked under the letter of credit. With these contentions, the learned senior counsel sought for setting aside the impugned order and consequently direct the respondents to permit re-export of consignment.

8. On the other hand, the learned counsel appearing for the respondents, while reiterating the averments of the counter affidavit, would contend that the company, namely, M/s.Zhejiang, which was claimed by the petitioner as the manufacturer and supplier of the material, itself has clarified to the Customs Office that they had not supplied or produced the material and that the certificate of analysis, batch release certificates were not of theirs and in such circumstances, since the petitioner has produced fake and forged documents and as the material imported was not from a registered source as per the Act and Rules, the authorities have rightly detained the same and further prosecution has already been launched against the petitioner and it is pending before the XV Metropolitan Magistrate and therefore, the learned counsel would contend that considering all the circumstances, the authorities have rejected the plea of the petitioner for re-exporting the spurious drugs and intimated the same by impugned communication, which cannot be interfered. He also pointed out that Rule 41(1) of the Act applies only for re-export of substandard drugs declared by the Director of testing lab only and not for spurious drugs and it is required for the purpose of marking it as material object during the trial of the prosecution. Hence, he sought for dismissal of the writ petition.

9. Heard the learned senior counsel for the petitioner and the learned senior Central Government standing counsel for the respondents and perused the entire records.

10. It is not in dispute that the petitioner has filed a Bill of Entry No.220583 dated 21.5.2009 for the clearance of 400 kgs of

Progesterone Micro, which according to the petitioner, manufactured by M/s.Zhejiang, which is a registered company having valid certificate issued under Rule 27-A of the Act. On verification, according to the respondents, it was found that the said consignment purported to be imported from an unregistered source and hence, the same was termed as 'spurious' under Section 9-B(e) of the Act and it was detained. It is also the case of the respondents that the relevant documents, viz., certificates of company and analysis, batch release certificates, etc., were found to be fake and forged by the petitioner for the purpose of the transaction. It is not in dispute that prosecution proceedings were also initiated by the CBI, Economic Offences Wing, Chennai the same were pending before the XV Metropolitan Magistrate, George Town, Chennai.

11. While exercising its extra-ordinary jurisdiction conferred under Article 226 of the Constitution, this Court is not inclined to venture into the disputed questions of fact, viz., whether the petitioner has imported the consignment based on the forged and fake documents from unregistered source contrary to the provisions of the Act and whether the detained material is a 'spurious', etc., since these are the allegations levelled against the petitioner, are the subject matter of the prosecution launched against the petitioner. The only point for consideration for consideration in this writ petition, is whether the impugned proceedings are liable to be set aside and the petitioner is entitled to re-export the consignment under Rule 41(1) of the Act?

12. According to the learned senior counsel appearing for the petitioner, the petitioner has valid licence to import Progesterone manufactured by the said M/s.Zhejiang and the material detained by the respondents was already form part of the subject matter of the investigation by the CBI, who already filed a charge sheet date 15.12.2010, which is pending for trial and the allegations made against the petitioner have yet to be proved and the petitioner was not served with any summons in respect of the prosecution thereof and in such circumstances, that there is no need to detain the entire material for the purpose of marking it as material object during the trial of the prosecution and it may be sufficient that a sample thereof may be retained for that purpose and the consignment can be permitted to re-export since the retention of the same is causing great prejudice to the petitioner since the funds of the petitioner to the extent of the invoice value of the goods has been blocked under the letter of credit.

13. It is worthwhile to refer the letter, dated 19.6.2009 addressed by the Asst.Drugs Controller, Chennai to the first respondent, which reads as under:

"With reference to the above, it is informed that the importer M/s.J.B.Khokhani & Co., Mumbai, has submitted in their letter dated 19.6.2009 that the Hongkong trader M/s.Hongkong Tiangao International Economic Development Corporation Ltd., Hongkong, who had supplied the subject noted consignment has agreed to accept the same if re-exported. A mail dt.19.6.2009 to this effect from M/s.Hongkong Tiangao International Economic Development Corporation Ltd., Hongkong submitted by M/s.J.B.Khokhani & Co., Mumbai is enclosed for your reference.

This may be accepted and in compliance with Rule 41(1) Drugs & Cosmetics rules, the importer M/s.J.B.Khokhani & Co., Mumbai Envee Druges Pvt.Ltd., may be permitted to re-export the Progesterone imported under B/E No.220583, dated 21.5.2009 to M/s.Hongkong Tiangao International Economic Development Corporation Ltd., Hongkong."

14. A perusal of the above, it is clear that the Asst.Drugs Controller has given nod for re-export of the consignment. However, in the meanwhile, criminal proceedings have been initiated against the petitioner since the imported goods were deemed as spurious. On 16.2.2012, the petitioner again has made a request to the respondents, seeking permission to re-export the consignment. Pursuant to the same, the second respondent addressed a letter, dated 24.2.2012 to the Superintendent of Police, CBI, Chennai, seeking advice on the feasibility of allowing re-export of the consignment and sent a communication to the petitioner on 9.3.2012 to await till the communication is received from CBI. Thereafter, by letter dated 13.3.2012, the Superintendent of Police, CBI, Chennai has sent a communication to the second respondent, stating that the facts and materials have been remitted to the Deputy Drugs Controller for further action and hence, it is of the considered view that further action may be decided by the respondents. On receipt of the same, the second respondent, addressed a letter dated 20.3.2012 to the Assistant Drugs Controller regarding the decision to be taken for grant of permission to the petitioner to re-export the consignment.

15. It is also relevant to refer the letter, dated 28.5.2012 addressed by the second respondent to the Deputy Drugs Controller, Chennai, which reads as under:

"Reference is invited to your letter dated 10.4.2012 requesting this department not to allow re-export of

400 kgs of Progesterone Micro imported by M/s.JB Khokhani & Co, Mumbai vide Bill of Entry No.220583 dated 21.5.2009.

Rule 41(1) of the Drugs and Cosmetics Rule 1945 provides an option to the importer to seek Re-export of the drugs which are not of standard quantity or has contravened the provisions of chapter III of the Drugs and Cosmetics Act, 1940 or the Rules thereunder, and that the contravention is such that it cannot be remedied by the importer.

In view of the said Rule, it is proposed to allow re-export of the goods after drawal of the representative samples from the consignment in presence of the importer.

It is further submitted that vide letter No.6-9/MP/209/529 dated 19.6.2009 the Assistant Drugs Controller (India), Chennai had recommended for re-export of the goods to the supplier M/s.Hongkong Tiagao International Economic Development Corporation Ltd., Hongkong (copy enclosed).

Therefore, a drug inspector may be deputed to draw representative samples at the earliest."

16. Thereafter, the second respondent addressed a letter dated 20.7.2012 to the Deputy Drugs Controller, Chennai, stating that since there is no reply from it in spite of repeated reminders, the Department is of the opinion that re-export permission be granted in the instant case. It is also requested by the second respondent to deputy a representative from Drug Controller Authority on 24.7.2012 so that sample may be drawn in presence of both the importer and the Drug Controller, if no representative is present on 24.7.2012, then sample will be drawn by the Customs Authorities and forwarded the same to the Deputy Drugs Controller for necessary action.

17. While the matters stood thus, the second respondent, by letter dated 24.7.2012 impugned in this writ petition, communicated the following to the petitioner.

"With reference to the above subject, it is informed that the re-export permission sought vide your letter dated 15.02.2012 is denied".

18. A perusal of the above communication, it is not known on what grounds, the second respondent has taken the decision to deny

the permission sought for by the petitioner for re-exporting the consignment. No reasons have been assigned in the impugned communication to enable the petitioner to workout his further remedy if any or atleast to know for his satisfaction as to why the decision has gone against him. However, strangely, the respondents have given reasons in the counter affidavit, as stated supra, by enclosing the proceedings of the Deputy Drugs Controller (India), CDSCO, South Zone, wherein, it is stated that the department had already obtained permission to prosecute the importer for having imported material without adequate registration and import licence and since, the contraventions attract the provisions of Drugs & Cosmetics Act and Rules and as per Section 14 of the Act, the imported drugs is subject to confiscation and Rule 41(1) applies for re-export of substandard drugs declared by Director of testing lab only and not for spurious drugs. The circumstances pointed out in the counter-affidavit cannot be held to be substitute for the reasons which the second respondent must be held to have arrived at a decision, cannot be countenanced. The second respondent who passed the impugned order cannot be permitted to support his order relying on or on the bases of the statements made in the counter affidavit. Therefore, whenever an order is passed by a statutory authority, the same must be supported either on the reasons stated therein or on the grounds available therefor in the record.

19. In this regard, it is worthwhile to refer a decision of the Hon'ble Supreme Court reported in "Hindustan Petroleum Corpn. Ltd. v. Darius Shapur Chenai", (2005) 7 SCC 627, at page 639, wherein, para 24 to 27 are relevant, and they are extracted as under:

"24. Submission of Mr Chaudhari to the effect that the circumstances pointed out in the counter-affidavit filed in WPMP No. 27633 of 2003 should be held to be substitute for the reasons which the State must be held to have arrived at a decision, cannot be countenanced. When an order is passed by a statutory authority, the same must be supported either on the reasons stated therein or on the grounds available therefor in the record. A statutory authority cannot be permitted to support its order relying on or on the basis of the statements made in the affidavit dehors the order or for that matter dehors the records.

"25. In Commr. of Police v. Gordhandas Bhan (1976(3) SCC 716), it is stated: (SCR p. 140)

"We are clear that public orders, publicly made in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the

order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."

"26. Yet again in Mohinder Singh Gill (199 (4) SCC 214), this Court observed: (SCC p. 417, para 8)

"8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to Court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in Gordhandas Bhanj (1976 (3) SCC 716):"

27. Referring to Gordhandas Bhanj (1976 (3) SCC 716, it was further observed: (SCC p. 417, para 8)

"Orders are not like old wine becoming better as they grow older."

(emphasis

added)

20. It is well settled law that the face of an order passed by a quasi-judicial authority or even an administrative authority affecting the rights of parties, must speak and it must not be like the inscrutable face of a sphinx". Recording of reasons operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power and it re-assures that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations. The authority shall adduce reasons which will be regarded as fair and legitimate by a reasonable man and will discard irrelevant or extraneous considerations. Therefore, the statutory authority, which is a decision maker, by exercising statutory power given under the Act, must assign the reasons while making the decisions and communicate the same to the aggrieved party. As already noted, the impugned communication was served on the petitioner with one sentence mentioning denial of re-exporting the consignment and admittedly, no reasons have been assigned in the impugned proceedings, dated 24.7.2012. In this regard, it is worthwhile to

refer to the decision reported in "Kranti Associates (P) Ltd. v. Masood Ahmed Khan" reported in (2010) 9 SCC 496", wherein, on the requirement of disclosing reasons by a quasi-judicial authority in support of its decision, the Hon'ble Supreme Court has summarised the principles as follows:

"(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for

both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harv. L. Rev. 731-37.)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain<sup>5</sup>, EHRR at p. 562, para 29 and Anya v. University of Oxford<sup>6</sup>, wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, 'adequate and intelligent reasons must be given for judicial decisions'.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of 'due process'.

21. For the foregoing reasons, since the impugned proceedings are passed without assigning reasons and having regard to the dictum laid down by the Hon'ble Supreme Court, this Court is constrained to come to the conclusion that the impugned proceedings cannot be sustained and are liable to be set aside.

22. However, the reason given by the Deputy Drugs Controller in the proceedings, dated 23.7.2012 is that Rule 41(1) of the Act applies for re-export of substandard drugs declared by Director of testing lab only and not for spurious drugs and since the material

is the evidence as part of the prosecution, re-export of the same should not be allowed.

23. It is relevant to extract Rule 41(1) of the Act, which reads as under:

"41.1. If the Director of the laboratory appointed for the purpose by the Central Government or any other officer empowered by him on this behalf subject to the approval of the Central Government reports to the Customs Collector that the samples of any drug in a consignment are not of standard quality, or that the drug contravenes in any other respect the provisions of Chapter III of the Act or the rules thereunder and that the contravention is such that it cannot be remedied by the importer, the Customs Collector shall communicate the report forthwith to the importer who shall, within two months of his receiving the communication either export all the drugs of that description in the consignment, to the country in which they were manufactured or forfeit them to the Central Government which shall cause them to be destroyed:]"

Provided that the importer may within fifteen days of receipt of the report make a representation against the report to the Customs Collector, and the Customs Collector shall forward the representation with a further sample to the licensing authority, who after obtaining, if necessary, the report of the Director of the Central Drugs Laboratory, shall pass orders thereon which shall be final."

24. A perusal of the above, it is clear that the re-export of the material can be made based on the declaration of the Director of testing Lab that the said drugs are not of substandard. In the present case, the Deputy Drugs Controller was of the view that the material itself is 'spurious drugs' since it has been imported by the petitioner without adequate registration and import licence and the documents furnished by the petitioner are forged and fake. For the risk of repetition, this Court reiterates that this Court cannot venture upon the issues, viz., whether the petitioner has imported the consignment based on the forged and fake documents from unregistered source contrary to the provisions of the Act and whether the detained material is a 'spurious', etc., since these are the allegations levelled against the petitioner, are the disputed questions of fact and are subject matter of the prosecution already launched against the petitioner. Therefore, it is not appropriate for the Deputy Drugs Controller to pre-determine

that the drugs are 'spurious' now itself in order to reject the claim of the petitioner for re-exporting of the consignment. As regards the contention raised on behalf of the respondents that the material in dispute is the subject matter of the prosecution and it is required for marking during the trial as part of the evidence, is concerned, as rightly pointed out by the learned senior counsel that there is no need to detain the entire material for the purpose of marking as material object during the trial of the prosecution and it may be sufficient that a sample thereof may be retained for that purpose and the consignment can be permitted to re-export since the retention of the same is causing great prejudice to the petitioner since the funds of the petitioner to the extent of the invoice value of the goods has been blocked under the letter of credit. I find considerable force in the contention of the learned senior counsel. However, this Court is of the view that while permitting the claim of the petitioner for re-exporting the material, appropriate conditions shall be imposed for compliance by the petitioner.

25. In the light of the above discussion, the Writ Petition is allowed and the impugned proceedings, dated 24.7.2012 of the second respondent, are hereby set aside. The respondents are directed to permit the petitioner to re-export the material covered by the Bill of Entry No.220583, dated 21.05.2009, subject to the following conditions, viz.,

i) The respondents shall depute a representative from the Drug Controller Authority and draw the requisite samples in the presence of both the importer and the Drug Controller, that may be required for the purpose of sending it to the Director of Testing Lab and preserve some samples for marking it as material object during the trial of the prosecution pending against the petitioner before the XV Metropolitan Magistrate Court, George Town, Chennai;

ii) The respondents are directed to follow the procedure contemplated in the Act, in the matter of allowing the re-export of the consignment;

iii) The petitioner is directed to execute an Indemnity Bond for the value of the consignment;

iv) The petitioner is also directed to file an affidavit of undertaking, bearing pros and cons that would arise in case, the petitioner is found guilty of the charges in the criminal proceedings;

iv) The respondents are directed to complete the above said exercise, by giving an opportunity to the petitioner, within a

period of eight weeks from the date of receipt of a copy of this order.

v) It is made clear that this order is passed having considered the contentions raised on either side, only for the limited purpose of re-exporting the consignment and this order will have no bearing over the criminal proceedings pending against the petitioner and the petitioner shall not take stand later that as if this Court permitted re-export and thereby there is clean chit that the drugs were not spurious and no offence was made out, etc., It is needless to mention that the respondents are always at liberty to proceed with the criminal proceedings already launched against the petitioner and take appropriate action, subject to the result of the criminal proceedings.

No costs. Consequently, connected MPs are closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Suk

To

1. The Commissioner of Customs,  
Customs House,  
No.60, Rajaji Salai,  
Chennai-600 001.

2. Asst.Commissioner of Customs (Gr-2),  
Customs House,  
No.60, Rajaji Salai,  
Chennai-600 001.

1 CC to Mr.R.Raghavan, Advocate SR.No. 3180

W.P.NO.17913 OF 2013

RSK (CO)  
PSI (06.02.2015)