

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 26.7.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.17685 of 2016

K.P.Manish Global
Ingredients Pvt ltd Rep by its Authorized
Representative Mr.P.Deepak Jain ... petitioner

versus

- 1 The Director (Imports)
Food Safety and Standards Authority of India
Ministry of Health and Family Welfare FDA
Bhawan Kotla Road New Delhi-110 002
- 2 The Authorized Officer Food
Safety & Standards Authority of India
Ministry of Health & Family Welfare
Southern Regional Office
Central Documentation Complex
II Floor Rajaji
Salai Chennai-01
- 3 Commissioner of Customs
Customs House No.60 Rajaji Salai Chennai-
600 001 respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records on the file of the 1st respondent with regard to the impugned order dated 26.04.2016 and to quash the same as Null and Void and consequently direct the respondents to release the consignment of Sweet Whey Powder imported vide Bill of Entry dated 29.12.2015 bearing No. 3741103 and Bill of Entry dated 06.01.2016 bearing No.3824194.

For petitioner ... Mr.K.Surendranath
For respondents ... Mr.Yasmin Ali,
for respondents 1 and 2
Mr.V.Sundareswaran, for R-3

O R D E R

Heard Thiru.K.Surendranath, learned counsel for the petitioner and Thiru. Yasmin Ali, for respondents 1 and 2 and Thiru.V.Sundareswaran, for the third respondents.

2. With the consent of both the sides, the Writ Petition is taken up for disposal.

3. The petitioner has filed this Writ Petition challenging the rejection of their request for re-sampling and retesting of Whey powder.

4. When the matter was heard for admission on 13.5.2016, the prayer for interim relief sought for by the petitioner was considered in W.M.P.Nos.15390 and 15391 of 2016. The petitioner sought for a direction to respondents 1 and 2 to take fresh samples from the consignment imported by them under two bills of entries and send the same for testing, in the presence of the authorized representative of the petitioner and at the cost of the petitioner and to place the report before this Court. The other prayer in the interim application was to shift the consignment to a private refrigerator warehouse. Both these miscellaneous petitions were allowed by common order dated 13.5.2016 and the samples were drawn and sent to the laboratory for testing and its report has been received and it has been produced before this Court by the learned counsel for the second respondent in a sealed cover.

5. Though the prayer sought for by the petitioner was to place the report before this Court, this Court is of the view that since the matter involves technical aspects, it is for the second respondent to pass a fresh order, based upon the said report. Needless to state, if the report submitted by the laboratory certify that the product conforms to the standards and specifications prescribed under the FFS Act, 2006, the second respondent has to issue no objection certificate so as to enable the Customs authorities to assess the bill of entries for the clearance of the goods. However, if the report makes certain reservations, then the second respondent should pass a speaking order, on merits and in accordance with law, after hearing the petitioner, within a period of one week from the date of receipt of a copy of this order.

6. The Writ Petition is disposed of with the above direction. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1 The Director (Imports)
Food Safety and Standards Authority of India
Ministry of Health and Family Welfare FDA
Bhawan Kotla Road New Delhi-110 002
 - 2 The Authorized Officer Food
Safety & Standards Authority of India
Ministry of Health & Family Welfare
Southern Regional Office II Floor Rajaji
Salai Chennai-01
 - 3 Commissioner of Customs
Customs House No.60 Rajaji Salai
Chennai-600 001
- +1 cc to Mr.V.Sundareswaran Advocate sr.42820
+1 cc to Mr.K.Surendranath Advocate sr.42243

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