

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2016

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.36696 of 2015

and

MP No.1 of 2015

M/s.Pon Pure Chemical India Private Limited
(Formerly M/s.Pon Pure Chem Private Ltd)
Rep. by its Director,
No.32, H Block, 15th Main Road,
Anna Nagar, Chennai - 600 040. ... Petitioner

vs.

1. The Commissioner of Customs (Import) - Seaport,
Customs House, Rajaji Salai,
Chennai - 600 001.
2. The Deputy Commissioner of Customs (Docks) - Seaport,
Customs House, Rajaji Salai,
Chennai - 600 001.
3. Food Safety and Standards Authority of India,
Ministry of Health and Family Welfare,
Government of India, FDA Bhavan,
Kotla Road, New Delhi - 110 002.
4. Food Safety and Standards Authority of India,
Ministry of Health and Family Welfare,
Government of India by its Authorized Officer,
2nd Floor, Central Documentation Complex,
Chennai Port Trust Buildings,
Rajaji Salai, Chennai - 600 001. .. Respondents

* * *

PRAYER : Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus to call for the entire records of the third and fourth respondents which culminated in the impugned proceedings of the fourth respondent in its Proceedings dated 11.11.2015 in F No.CC-29/Court Cases/FSSAI/CHN/Imports/2015 and quash the same and further direct the respondents herein to clear the balance consignment in B.L.No.HDMUBRIH 1388222, B.E.No.4602156

dt.11.02.2014 and IGM No.2076827/19/01/2014 dt.21.01.2014
forthwith.

* * *

For Petitioner : Mr.V.Bharathidasan

For Respondents : Mr.T.Chandrasekaran
Standing Counsel for RR1 and 2

Mr.K.Surendranath for R4

O R D E R

Challenging the proceedings of the fourth respondent dated 11.11.2015 in F No.CC-29/Court Cases/FSSAI/CHN/Imports/2015 and seeking for a direction to the respondents herein to clear the balance consignment in B.L.No.HDMUBRIH 1388222, B.E.No.4602156 dt.11.02.2014 and IGM No.2076827/19/01/2014 dt.21.01.2014 forthwith, the petitioner is before this Court.

2. According to the petitioner, they are dealer and distributor of various types of chemicals and dyes and they purchase the chemicals and dyes from various parts of India and also by way of imports. They are regularly importing Phosphoric Acid - Good Grade Chemicals through the Chennai Sea Port. They are selling this Acid to food industries and they are not selling it as a food product or directly to any consumer for consumption as a food item.

3. The petitioner imported Phosphoric Acid from Brazil in three containers on 12.11.2013 with all duly required documents. The Customs authorities cleared two containers and the petitioner company was permitted to take the same from the Customs Bonded Warehouse, but they were not permitted to take the other container and the same is retained by the authorities for want of certification from the Food Safety and Standards Authority of India. Therefore, the petitioner made a representation to the FSSAI, New Delhi, on 19.07.2014 to issue necessary clarification to clear the consignment, taking into account the date of manufacturing and date of expiry by accepting the analysis certification of the foreign supplier. The petitioner also submitted a representation to the second respondent on 03.11.2014 to clear the consignment.

4. Since the representations yielded no response, the petitioner filed W.P.No.34472 of 2015 seeking direction to the respondents therein to clear the consignment. This Court, by the order dated 22.09.2015, considering the limited prayer made by the learned counsel for the petitioner at the time of arguments, directed the third respondent therein to dispose of

the representation dated 24.12.2014 on merits and in accordance with law within a period of two weeks from the date of receipt of a copy of that order.

5. The fourth respondent passed the impugned order dated 11.11.2015 rejecting the representation dated 24.12.2015. Hence, this writ petition is filed by the petitioner with the above prayer.

6. The learned counsel for the petitioner submitted that the petitioner filed an affidavit dated 14.12.2015 before this Court thereby undertaking to sell the goods only for non-food manufacturing industries numbering 27 mentioned in the affidavit and they would submit a proof report for the same before the authorities concerned.

7. Since the petitioner has filed an undertaking to the effect that the goods would be sold only for non-food manufacturing industries listed in the affidavit numbering 27 and thereafter to file a proof report in this regard before the authorities concerned, recording the said submission made by the petitioner in the affidavit filed before this Court, by placing the same on record, the respondents are directed to release the consignment in question forthwith. The petitioner shall produce a copy of the affidavit filed along with the copy of this order to the respondent. It is made clear that violations, if any, unearthed by the respondents, it is open to them to proceed against the petitioner in the manner known to law.

With the above directions and observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.
gg

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Commissioner of Customs (Import) - Seaport,
Customs House, Rajaji Salai,
Chennai - 600 001.
2. The Deputy Commissioner of Customs (Docks) - Seaport,
Customs House, Rajaji Salai,
Chennai - 600 001.

3. The Food Safety and Standards Authority of India,
Ministry of Health and Family Welfare,
Government of India, FDA Bhavan,
Kotla Road, New Delhi - 110 002.

4. The Authorized Officer,
Food Safety and Standards Authority of India,
Ministry of Health and Family Welfare,
Government of India,
2nd Floor, Central Documentation Complex,
Chennai Port Trust Buildings,
Rajaji Salai, Chennai - 600 001.

+ 1 cc to Mr.K.Surendranath, Advocate Sr 1746

+ 1 cc to Mr.T.Chandrasekaran, Advocate Sr 1486

+ 1 cc to Mr.V.Bharathidasan, Advocate Sr 1728

UG/CO
KR/12/1/16

W.P.No.36696 of 2015



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