

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.6.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.21961 to 21963 of 2016

&

WMP.No.18787 of 2016

M/s.Plux Max Duty Free Pvt.Ltd.,
rep.by its Authorized Signatory
P.Muniyandi

...Petitioner

Vs.

1.Union of India through the Secretary
Ministry of Health and Family
Welfare of India, Nirman Bhawan,
C-Wing, New Delhi-1.

2.The Chairperson, Food Safety &
Standards Authority of India,
FDA Bhawan, Near Balbhavan, Kotla
Road, New Delhi-2. India.

3.The Deputy Director, Food Safety
& Standards Authority of India,
Ministry of Health & Family Welfare,
2nd Floor, South Wing, Chennai
Port Trust Buildings, Rajaji Salai,
Chennai-1.

4.The Commissioner of Customs,
Group (I), Custom House,
Rajaji Salai, Chennai-1.

5.The Deputy Commissioner of Customs,
Group (I), Custom House, Rajaji
Salai, Chennai-1.

...Respondents

PETITIONS under Article 226 of The Constitution of India
praying for the issuance of (i) a Writ of Declaration declaring
that the provisions of the Food Safety and Standards Act, 2006
are not applicable to the import of any goods imported and

bonded on arrival for sale at the petitioners duty-free shops whether to outgoing or incoming passengers against payments in free foreign exchange (WP.No.21961 of 2016); (ii) a Writ of Mandamus directing the 2nd respondent to issue a no objection certificate to the petitioner for import of goods for sale in its duty free shop as the business of the petitioner not covered by provision of the FSS Act (WP.No.21962 of 2016) and (iii) a Writ of Mandamus forbearing the fourth and fifth respondents from insisting on compulsory compliance requirement of drawing sample for FSSAI inspection and obtain NOC compliance from FSSAI for clearance of goods as the same is illegal, arbitrary and without jurisdiction (WP.No.21963 of 2016).

For Petitioner : Mr.R.Nalliappan
For Respondents 1 to 3 : Mr.B.Rabu Manohar, SCGPC
For Respondents 4 & 5 : Mr.A.P.Srinivas, SSC

COMMON ORDER

Mr.Rabu Manohar, learned Senior Central Government Panel Counsel accepts notice for respondents 1 to 3. Mr.A.P.Srinivas, learned Senior Standing Counsel accepts notice for respondents 4 and 5. Heard both. By consent, the writ petitions are taken up for final disposal.

2. Learned counsel for the petitioner submits that the Food Safety and Standards Authority of India, by proceedings dated 3.6.2016, issued certain directions and as a result of which, it is further submitted that no orders need be passed in these writ petitions in the light of the said directions.

3. The learned counsel for the respondents submit that they do not have any instructions in the matters and that the directions appear to have been downloaded from the official website.

4. Be that as it may, the petitioner states that no orders are required in these writ petitions. For better appreciation, the directions issued by the Food Safety and Standards Authority of India dated 3.6.2016 are extracted hereunder:

"F.No.15017/131/2014-FSSAI/Legal
Food Safety and Standards Authority of India
(A Statutory Authority under the Ministry of
Health and Family Welfare, Government of
India)
FDA Bhawan, Kotla Road, New Delhi-110002

The 3rd June 2016

Subject : Direction under Section 16(5)

of Food Safety and Standards Act, 2006 regarding duty free shop at all airports of India.

Food Safety and Standards Authority of India (FSSAI) had, in exercise of the power conferred by Clause (d) of Sub-Section (2) of Section 18 of the Food Safety and Standards Act, 2006 operationalized the Food Safety and Standards (Food Import) Regulations, 2016. Clause 14.3 of the notice of operationalization stipulated that 'The provisions of the Act and the Regulations will be applicable to all duty free shops at all Airports of India'.

2. After due consideration of representations received from various stakeholders, the above mentioned issue has been re-examined and it has been decided that duty free shops would be outside the ambit of Food Safety and Standards Act, 2006 and Regulations made thereunder. Accordingly, Clause 14.3 of the notice referred to above stands deleted with immediate effect till such time the import regulations are finally notified.

3. This issues with the approval of the Competent Authority in exercise of the power vested with Food Authority under Clause 5 of Section 16 of the Food Safety and Standards Act, 2006.

Sd/-

Advisor (Regulations) "

5. The stand taken by the learned counsel for the petitioner is placed on record. Accordingly, the writ petitions are dismissed as unnecessary. No costs. Consequently, the above WMP is also dismissed.
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Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Secretary to Union of India, Ministry of Health and Family Welfare of India, Nirman Bhawan, C-Wing, New Delhi-1.

2.The Chairperson, Food Safety & Standards Authority of India, FDA Bhawan, Near Balbhavan, Kotla Road, New Delhi-2. India.

3.The Deputy Director, Food Safety & Standards Authority of India, Ministry of Health & Family Welfare, 2nd Floor, South Wing, Chennai Port Trust Buildings, Rajaji Salai, Chennai-1.

4.The Commissioner of Customs, Group (I), Custom House, Rajaji Salai, Chennai-1.

5.The Deputy Commissioner of Customs, Group (I), Custom House, Rajaji Salai, Chennai-1.

+ 1 cc to Mr.B.Rabu Manohar, Advocate Sr 35595

+ 1 cc to Mr.R.Nalliappan, Advocate Sr 35760

+ 1 cc to Mr.A.P.Srinivas, Advocate Sr 36458

KR/12/7/16

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&
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