

W.M.P.No.34638 of 2016 in
W.P.No.17439 of 2016

T.S.SIVAGNANAM, J.

Heard Mr.S.R.Sundar, learned Senior Panel Counsel appearing for the Revenue and Mr.M.N.Bharathi, learned counsel for the first respondent and Mrs.S.Meenakumari, learned Central Government Standing Counsel for the second respondent.

2.This Miscellaneous Petition has been filed to direct the first respondent/writ petitioner to pay the testing fees for the purpose of complying with the order and direction issued in W.P.No.17439 of 2016 dated 22.07.2016. The operative portion of the order reads as follows:

"5.In the light of the above, while holding that it would be unnecessary for this Court to go into as to the validity of the impugned Notification. It would suffice to direct the 2nd respondent to draw samples from the consignment within a period of one week from the date of receipt of a copy of this order and send the samples to the National Metallurgical Laboratories, Madras Center, CSIR Madras Complex, Tharamani, Chennai – 600 113 for testing and report. Based on the report obtained from the National Metallurgical Laboratory, the respondents shall assess the petitioner's Bills of Entry and pass appropriate orders within a period of one week from the date on which the report is received from the Laboratory."

3.The learned Senior Panel Counsel submits that as the facility to test the samples as mentioned in the Writ Petition is not available in the National Metallurgical Laboratories, Madras Center, CSIR Madras Complex, Tharamani, Chennai, it has to be sent to the National Metallurgical Laboratory, at Jamshedpur or at the National Testing House, Southern Region, Chennai and seeks for a direction upon the respondent/Writ Petition, to pay the cost for such testing.

4.Considering the fact that the facility to test the samples is available at Chennai, the order and direction issued in paragraph No.5 of the order stands modified and the second respondent is directed to draw samples from the consignment within a period of one week from the date of receipt of a copy of this order and send the samples to the National Testing House, Southern Region, Chennai, for testing and report. Based on the report obtained from the National Testing House, Southern Region, Chennai, the respondents shall assess the petitioner's Bills of Entry and pass appropriate orders within a period of one week from the date on which the report is received from the Laboratory. The cost of carrying out the test shall be borne by the respondent/writ petitioner and if intimated in advance, the same shall be remitted by the respondent/ writ petitioner immediately, to facilitate the testing process.

With the above direction, this Miscellaneous Petition is disposed of.

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Note:Issue order copy on 28.11.2016

22.11.2016

**T.S.SIVAGNANAM, J.
rpa**

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22.11.2016

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