

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.34161 of 2016

MSC Agency (India) Private Limited,
1st Floor, KGN Towers,
No.62, Ethiraj Salai,
Egmore, Chennai-600 015.
Represented by its authorized signatory.
A.Umaibalan

... Petitioner

Versus

1. The Commissioner of Customs Import, (Chennai II),
Office of the Customs Seaport,
Custom House,
Rajaji Salai, Chennai-600 001.
2. The Commissioner of Customs Import, (Chennai III),
Office of the Customs Seaport,
Custom House,
Rajaji Salai, Chennai-600 001.
3. The Commissioner of Customs Import, (Chennai IV),
Office of the Customs Seaport,
Custom House,
Rajaji Salai, Chennai-600 001.
4. The Commissioner of Customs Import, (Chennai V),
Office of the Customs Seaport,
Custom House,
Rajaji Salai, Chennai-600 001.
5. The Assistant / Deputy Commissioner of Customs,
SIIB, Custom House,
Rajaji Salai, Chennai-600 001.
6. The Assistant / Deputy Commissioner of Customs,
DIU, Custom House,
Rajaji Salai, Chennai-600 001.
7. The Assistant / Deputy Commissioner of Customs,
Warehouse & Disposal Unit, Custom House,
Rajaji Salai, Chennai-600 001.

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the
Constitution of India, seeking for a Writ of Mandamus, to

direct the respondents to forthwith release and return to the petitioner, the 54 empty containers (morefully mentioned in Schedule A hereunder) without claiming any charges from the petitioner in terms of the order of the third respondent, dated 18.12.2015.

For Petitioner : Mr.P.Giridharan

For Respondents : Mr.S.Rajasekar

O R D E R

Heard Mr.P.Giridharan, learned counsel appearing for the petitioner and Mr.S.Rajasekar, learned counsel appearing for the respondents.

2. The petitioner in this Writ Petition has prayed for a direction upon the respondent to forthwith release the 54 empty containers as described in Schedule A appended to Writ Petition in terms of the order passed by the Commissioner of Customs, (Chennai IV), dated 18.12.2015. Pursuant to the direction issued by this Court, a Status Report has been filed by the Deputy Commissioner of Customs (Legal), Custom House Chennai, giving status as regards the various containers for which the petitioner seeks for an order of release . For better appreciation, the entire Status Report is quoted herein below:-

"STATUS REPORT

Container No.	Sl.No. as shown in Schedule-A of the W.P.	Name of the CFS	Status
MEDU 2322518	6	Balmer	Pending Animal Quarantine (AQ) clearance. Examination Report not available. NOC will be given after clearance from AQ.
MSCU 1179047	43		
MEDU 2778365	44		
MEDU 1724997	45	Thirurani	NOC already issued
MSCU 3009944	46		

Container No.	Sl.No. as shown in Schedule-A of the W.P.	Name of the CFS	Status
MEDU 1179721	2	Balmer	NOC is granted after obtaining NOC from SIIB/DIU by UCC
MSCU 6922134	3		
TRLU 5736291	1	ALL	Case has been adjudicated by Jt. Commr of Customs (Gr-4). Importer has not turned up for payment of duty, fine & penalty till date.
MSCU 8148834	18	CARGO Balmer	
MSCU 7245737	21	SANCO	
MEDU 2782489	47	VIKING CFS	The importer has abandoned the imported goods and Note has been forwarded to UCC.
TRLU 8149404	42		Order dated 28.10.2016 has been issued to the CFS for de-stuffing of the goods & release of the containers.
MEDU 3450508	7		
MEDU 3636806	8		
MSCU 3352233	9		
TGHU 3493818	10	Sattva,	
MEDU 1477979	11	Manali	
MSCU 1842020	12		
MSCU 1987575	13		
TCLU 2132540	14		
TPHU 6952626	15		
MSCU 958456	17		

Container No.	Sl.No. as shown in Schedule-A of the W.P.	Name of the CFS	Status
GLDU 3227180	22	Sattva,	Misc-declaration by the importer, hence goods seized and SIIB investigation concluded & SCN issued. Adjudication pending.
GLDU 5049339	23	Manali	
MEDU 1425701	24		
MEDU 2010187	25		
MEDU 3201059	26		
MEDU 3340202	27		
MSCU 2067334	28		
MSCU 3796310	29		
TGHU 3651940	30		
TRLU 8925468	31		
GATU 0967181	32		Misc-declaration by the importer, hence goods seized and SIIB investigation concluded & SCN issued. Adjudication pending.
MEDU 1041115	33		
MEDU 3378403	34	Sattva,	
MSCU 1342724	35	Manali	
MSCU 2932216	36		
MSCU 3955601	37		
MSCU 6146745	38		
MSCU 6702295	39		
SEZU 7982344	40		
TTNU 2936620	41		

Container No.	Sl.No. as shown in Schedule-A of the W.P.	Name of the CFS	Status
MSCU 712241	48	APMT	Misc-declaration by the importer, hence goods seized and SIIB investigation concluded & SCN issued. Adjudication pending.
CLHU 2046548	49		SCN issued to the petitioner as to why the containers should not be confiscated. Adjudication pending.
MEDU 2371338	50		Petitioner called for Personal hearing on 04.11.2016.
MLCU 2499783	51		
MSCU 3653197	52	APMT	
MSCU 3950533	53		
MSCU 6036291	54		
TOLU 8771789	4		Issues pending between the petitioner and Custodians as held by the Commissioner of Customs (CH-IV) Vide proceedings in S.Misc.No.22 / 2012-UCC, dated 27.07.2016
MEDU 1889636	5		
MSCU 2429876	16	Balmer	
AMFU 8542716	19	ICBC	
MSCU 8929009	20		

Based on the above information, the Writ Petition can be disposed of by passing the following order:-

(1) So far as serial No.6 is concerned, since NOC can be given only after obtaining clearance from Animal Quarantine, the Department is granted eight weeks time to obtain appropriate clearance from the Animal Quarantine and issue NOC and release the container within that period.

(2) So far as serial Nos.43 to 46, NOC has already been

https://hcservices.courts.gov.in/hcservices/... Hence, no further direction is required.

(3) So far as serial Nos.2 and 3, NOC has already been issued. Hence, no further direction is required.

(4) So far as serial Nos.1, 18 and 21, NOC is directed to be issued by the respondents after de-stuffing the cargo, which would be done within a period of eight weeks from the date of receipt of a copy of this order.

(5) So far as serial No.47 is concerned since the importer has abandoned the cargo, the Department is directed to take fresh proceedings with regard to releasing the container within a period of eight weeks from the date of receipt of a copy of this order.

(6) So far as Serial Nos.42, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 17, order has already been passed. Hence, no further order is required.

(7) So far as Serial Nos.22 to 41, since the adjudication is pending, the adjudicating authority is directed to complete the adjudication and pass orders within a period of eight weeks from the date of receipt of a copy of this order.

(8) So far as Serial No.48, since the adjudication is pending, final orders shall be passed within a period of eight weeks from the date of receipt of a copy of this order.

(9) So far as Serial Nos.49 to 54, there appears to be some factual discrepancies raised by the petitioner stating that the Status Report does not give the correct information. In any event, if show-cause notice is pending or yet to be issued, the adjudication proceedings is directed to be proceeded with in accordance with law as expeditiously as possible.

(10) So far as Serial Nos.4, 5, 16, 19 and 20, since the issue is pending in Appeal, the petitioner is at liberty to workout his remedies in accordance with law.

3. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

r n s

To

1. The Commissioner of Customs Import, (Chennai II),
Office of the Customs Seaport,
Custom House,
Rajaji Salai, Chennai-600 001.

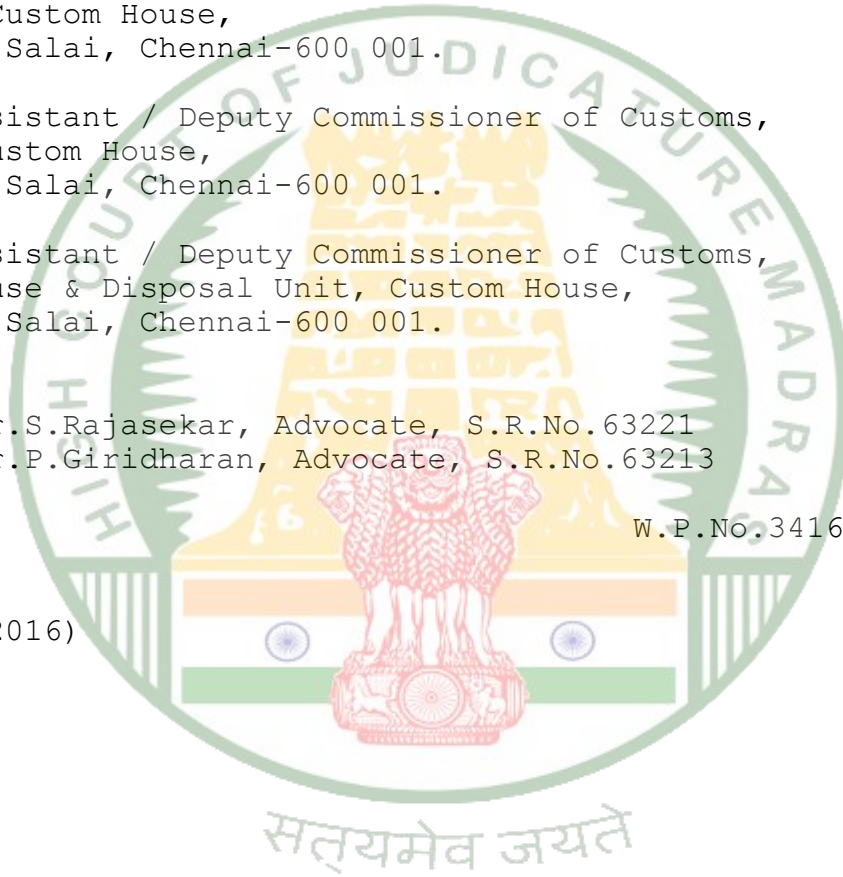
2. The Commissioner of Customs Import, (Chennai III),
Office of the Customs Seaport,
Custom House,
Rajaji Salai, Chennai-600 001.

3. The Commissioner of Customs Import, (Chennai IV),
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Rajaji Salai, Chennai-600 001.

+lcc to Mr.S.Rajasekar, Advocate, S.R.No.63221
+lcc to Mr.P.Giridharan, Advocate, S.R.No.63213

W.P.No.34161 of 2016

RJ(CO)
CA(02/12/2016)



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