

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2016

CORAM:

THE HON 'BLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.36139 & 30220 of 2016

and W.M.P.Nos.26208, 26209 & 27112 of 2016

in WP.NO.30220 of 2016 and

WMP.31087/2016 in WP.36139/2016

M/s.Easy Solutions

Represented by its Proprietrix,

Mrs.Narayani Chandra Moorthy

..Petitioner in  
both W.Ps'

/vs/

1.The Additional Commissioner  
of Customs (Group 2)

Custom House, 60, Rajaji Salai,  
Chennai - 600 001.

..1st Respondent in W.P.36139/16 and  
respondent in WP.30220/16

2.The Deputy Commissioner  
of Customs (Group 2)

Custom House, 60, Rajaji Salai,  
Chennai - 600 001.

3.The Manager, DP World Chennai

Chennai Container Terminal Pvt. Ltd.,  
Chennai Port Trust, Administrative Building  
Ground Floor No.1, Rajaji Salai,  
Chennai -600 001.

.. Respondents 2 & 3 in WP.36139/16

Prayer in W.P.No.36139 of 2016: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the 2<sup>nd</sup> respondent to refrain from giving any permission under Section 48 of the Customs Act, 1962, to the 3<sup>rd</sup> respondent for selling or auctioning the goods covered under bill of lading No.3CEI6064054 dated 27.06.2016 and bill of entry No.6237726 dated 04.08.2016 pending the outcome of writ petition No.30220 of 2016 pending before this Court.

Prayer in W.P.No.30220 of 2016: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari Mandamus, calling for the records pertaining to

the impugned show cause notice dated 24.08.2016 issued in F.NO.S.Misc.1539/2016-Gr.2 issued by the respondent and quash the same.

For Petitioner : Mr.G.Derrick Sam

For Respondents : Mr.S.R.Sundar,  
(in both W.Ps') Senior Panel Counsel for R1 & R2  
Mr.V.J.Mathew & Co. for R3

-----

#### COMMON ORDER

W.P.No.30220 of 2016 has been filed challenging a show cause notice dated 24.08.2016. The case was heard on several dates and counter affidavit was also perused. But the impugned proceedings being a show cause notice, this Court is of the firm view that the petitioner should subject themselves to the adjudication process.

2. Learned counsel appearing for the petitioner, during the course of argument, produced a copy of a bond executed by the petitioner, who had imported and filed Bill of Entry dated 28.09.2013 for clearance of the goods declared as Klercide-CR Biocide X [70.70 kgs] and Klercide - CR Sterile Biocide Y [67.76 Kgs] . It is submitted that in the said bond, the importer had agreed to the following conditions:

"If the importer undertakes that necessary NOC/Proof of application for registration from Central Insecticides Board will be produced within six months of order from the Higher Appellate Authority, in the event of department succeeding in Appeal filed against O-in-A."

3. It is submitted by the learned counsel for the petitioner that the petitioner may also be put on the similar conditions and the petitioner may be permitted to re-export the goods.

4. The impugned proceedings being only a show cause notice cannot be interdicted at this juncture. But however, if identical imports have been permitted subject to certain conditions, the respondent can examine as to why, such a condition should not be imposed in the petitioner's case also.

5. However, no positive directions can be granted in this writ petition. Accordingly, while rejecting the prayer sought for to quash the impugned show cause notice, the petitioner is directed to submit a reply to the show cause notice within a period of 15 days from the date of receipt of a copy of this

order in which they can raise the plea with regard to the other consignment, which was released, for which, the petitioner has given a bond and if such plea is raised, the respondent is directed to consider the same as first among the other pleas and proceed in accordance with law.

6. Since the respondent No.3 is attempting to dispose of the goods, the petitioner filed W.P.No.36139 of 2016 to direct the second respondent to give permission under Sections 48 of the Customs Act 1962 for selling or auctioning the goods. The Court protected the interest of the petitioner for granting an interim order.

7. In the light of the same, till the adjudication of the show cause notice in terms of the above directions is completed, the respondents shall not sell or auction the goods covered under the said Bill of Lading.

8. With the above directions, these Writ Petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To

1.The Additional Commissioner  
of Customs (Group 2)  
Custom House, 60, Rajaji Salai,  
Chennai - 600 001.

2.The Deputy Commissioner  
of Customs (Group 2)  
Custom House, 60, Rajaji Salai,  
Chennai - 600 001.

3.The Manager, DP World Chennai  
Chennai Container Terminal Pvt. Ltd.,  
Chennai Port Trust, Administrative Building  
Ground Floor No.1, Rajaji Salai,  
Chennai -600 001.

+2 cc to Mr.Hari Radhakrishnan, Advocate SR.NO. 71407 and 71406  
+1 cc to M/s.V.J.Mathew &Co. Advocate SR.NO. 71118  
+1 cc to Mr.V,.Sundareswaran, Advocate SR.NO.71816.  
+1 cc to Mr.S.R.Sundar, Advocate SR.NO. 71325

W.P.Nos.36139 & 30220 of 2016

MMP 02.01.2017



WEB COPY