

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2016

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.396 to 398 of 2016
and WMP Nos.273 to 275 of 2016

M/s.Rose Traders

rep. by its Proprietrix Mrs.A.Hatizabi,
No.10, Kanniamman Koil Street,
Chinna Kottakuppam 605 104
Vanar Taluk, Tindivanam,
Villupuram District.

... Petitioner in all Wps.

vs.

1. The Commissioner of Customs,
Madurai - Harbour Express Road,
Periyanayagapuram,
Thoothukudi 628 008.

2. The Authorised Officer,
Food Safety and Standards Authority of India,
Ministry of Health and Family Welfare,
2nd Floor, Central Documentation Complex,
(South Wing), Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.

.. Respondents in all WPs

* * *

PRAYER in W.P.No.396 of 2016 : Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus directing the second respondent to draw fresh samples from the consignment covered under Bill of Entries bearing B.E. No.3530613, dated 09.12.2015 on the file of the first respondent and to forward the samples to the Notified Laboratory and to get their report and forward the same to the first respondent for the purpose of clearance of the perishable goods imported by the petitioner.

PRAYER in W.P.No.397 of 2016 : Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus directing the second respondent to draw fresh samples from the consignment covered under Bill of Entries bearing B.E.No.3530485, dated 09.12.2015 on the file of the first respondent and to forward the samples to the Notified Laboratory and to get their report and forward the same to the first respondent for the purpose of clearance of the perishable goods imported by the petitioner.

PRAYER in W.P.No.398 of 2016 : Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus directing the second respondent to draw fresh samples from the consignment covered under Bill of Entries bearing B.E.No.3421467, dated 30.11.2015 on the file of the first respondent and to forward the samples to the Notified Laboratory and to get their report and forward the same to the first respondent for the purpose of clearance of the perishable goods imported by the petitioner.

* * *

For Petitioner in : Mr.Abdul Nazeer
all these petitions

For Respondents in : Mr.S.Haja Mohideen Gisti for
R1
all these petitions Mr.Yaseem Ali for R2

C O M M O N O R D E R

These writ petitions have been filed by the petitioner seeking a direction to the second respondent to draw fresh samples from the consignment covered under Bill of Entries bearing B.E.No.3530613 and B.E.No.3530485, dated 09.12.2015 and B.E.No.3421467, dated 30.11.2015 respectively, on the file of the first respondent and to forward the samples to the Notified Laboratory and to get their report and forward the same to the first respondent for the purpose of clearance of the perishable goods imported by the petitioner.

2. The petitioner company has been importing wet Dates from Gulf countries for six years and reselling it, after repacking. They imported Wet Dates from Royal Link International LLC, Dubai in nine containers under three Bill of Entries. They engaged the services of CHA, namely, M/s.Accord Logistics (India) Private Limited for the clearance of the above said goods. Out of nine containers, one container is loaded with high quality Dates under Bill of Entry No.3421467, dated 30.11.2015. The remaining eight containers containing Dates were imported under Bill of Entry No.3430485 and 3530613, dated 09.12.2015. After getting clearance from the first respondent, the petitioner was waiting for clearance by the second respondent. However, the second respondent, on mere visual inspection, without sending the goods for laboratory examination, denied clearance. Hence, the petitioner sent a representation dated 21.12.2015 to the second respondent to collect samples and forward the same to the laboratory for testing. Since the petitioner has been incurring demurrage charges and the goods imported, namely, Dates, being agricultural product, are perishable in nature, the petitioner is before this court with the above prayer.

3. The learned counsel for the petitioner submitted that the authorities of the Directorate of Plant Protection, Quarantine and Storage, Department of Agriculture and Co-operation, Ministry of Agriculture, Government of India, inspected the goods on 16.12.2015 and issued certificate recommending release of the goods on 18.12.2015 and thereafter only the petitioner made the representation dated 21.12.2015. The petitioner also submitted a reminder on 31.12.2015. Since there is no reply from the second respondent, the petitioner has filed this writ petition.

4. The learned counsel for the second respondent submitted that the date of manufacture of the goods goes back to 2014 and according to them, it may not be suitable for human consumption.

5. On the other hand, learned counsel for the petitioner submitted that without any laboratory test, by mere visual examination, it cannot be stated that the goods are unfit for human consumption.

6. Considering the submissions of both sides, in order to give quietus to this issue, the second respondent is directed to draw samples from the consignment and forward it to the Notified Laboratory. The petitioner is permitted to produce all the relevant documents, including the Origin Certificate to the authorities for consideration. The respondents are directed to consider the claim of the petitioner, on the basis of the report of the Laboratory Authorities, for earlier release, taking note of the recommendations of the Government of India by the certificate dated 18.12.2015 and pass necessary orders within two weeks from the date of receipt of a copy of this order.

7. These writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

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s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Commissioner of Customs,
Madurai - Harbour Express Road,
Periyamayagapuram,
Thoothukudi 628 008.

2. The Authorised Officer,
Food Safety and Standards Authority of India,
Ministry of Health and Family Welfare,
2nd Floor, Central Documentation Complex,
(South Wing), Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.

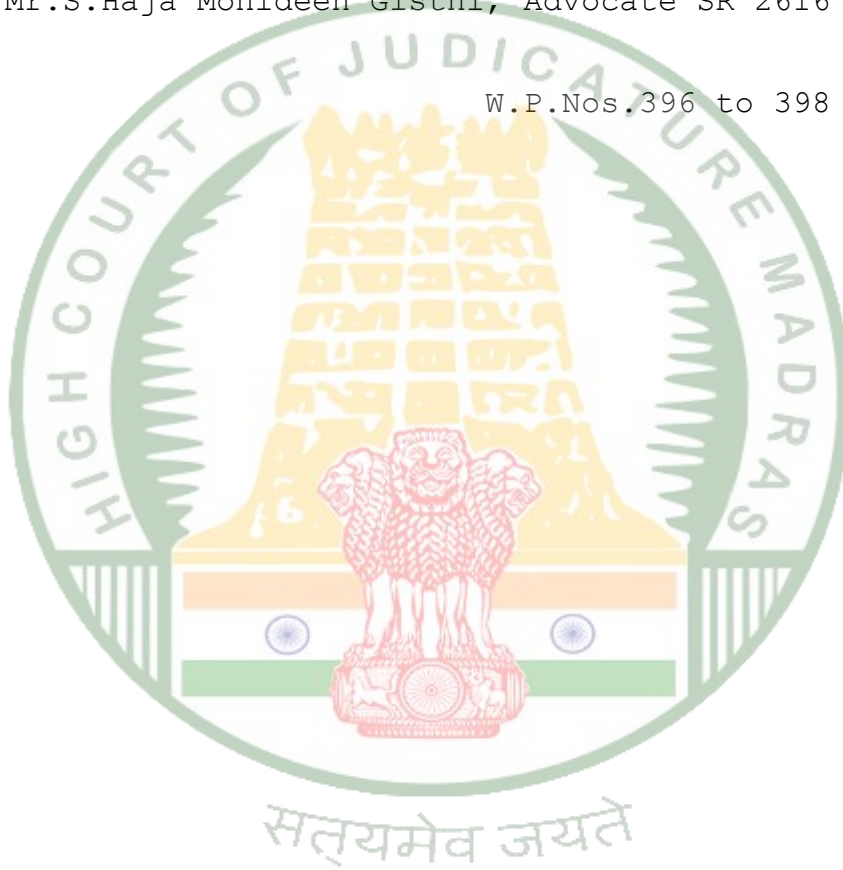
+ 1 cc to Mr.H.Yasmin Ali, Advocate SR 2377

+ 1 cc to Mr.M.Abdul Nazeer, Advocate SR 2378

+ 1 cc to Mr.S.Haja Mohideen Gisthi, Advocate SR 2616

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