

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.22114 of 2017

and

WMP.No.24910 of 2017

M/s.Isha Exim,
P-586, Block N, New Alipore,
Kolkata-700 053,

Rep. By its proprietor Shri Prabal Kumar Kundu. ... Petitioner

Vs.

1.The Commissioner of Customs,
Chennai II Commissionerate,
Custom House,
No.60, Rajaji Salai,
Chennai – 1.

2.The Additional Director General,
Directorate of Revenue Intelligence,
G.N.Chetty Road, T.Nagar,
Chennai – 17.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of mandamus to direct the respondents to release the goods imported vide Bill of Entry No.2696680, dated 02.08.2017, and detained vide Mahazar dated 10.08.2017, forthwith.

For Petitioner : Mr.S.Krishnanandh

For R1 : Mrs.R.Hemalatha

For R2 : Mr.V.Sundareswaran

ORDER

Heard Mr.S.Krishnanandh, learned counsel for the petitioner, Mrs.R.Hemalatha, learned counsel for the first respondent and Mr.V.Sundareswaran, learned counsel for the second respondent.

2. The petitioner seeks for issuance of a writ of mandamus to direct the respondents to release the goods imported vide Bill of Entry No.2696680, dated 02.08.2017.

3. The petitioner filed a Bill of Entry stating that they have imported Betelnut from overseas. The consignment was detained and the matter was taken up for investigation at the instance of the second respondent/DRI. Since the petitioner's request for provisional release was kept pending, the petitioner approached this Court by way of this writ petition.

4. During the pendency of the writ petition, the samples, which were drawn and sent for testing to the Customs House Laboratory, were tested and report dated 05.09.2017 has been submitted to the second respondent.

5. On a perusal of the report, it is seen that the Customs House Laboratory has certified that each of the three samples is in the form of small brown irregular cut pieces of nuts. Each is areca nuts (betel nuts). Each does not contain any metal items, flavouring compounds, tobacco and lime. The moisture content and Ash content of three samples have also been mentioned. On receipt of the said report from the Laboratory, the second respondent, in turn, has intimated the first respondent vide letter dated 07.09.2017 while recommending for further investigation, observed that considering the perishable nature of goods, it is suggested that the goods may be provisionally assessed to duty and released to the petitioner/importer subject to conditions laid down under Section 18 of the Customs Act. To the said effect, email has also been sent to the Customs' Legal Department stating that the goods may be provisionally assessed subject to outcome of further investigation by the DRI.

6. In the light of the above, there will be a direction to the respondents to release the subject consignment by provisionally assessing the same within a period of one week from the date of receipt of a copy of this order. Since the goods have been detained at the instance of the DRI for investigation, in law, the petitioner should be entitled to the detention certificate for the relevant period. Accordingly, there will be a direction to the first respondent to consider the petitioner's request for issuance of detention certificate as well as demurrage waiver certificate in terms of Handling of Cargo in Customs Area Regulation, 2009, from the date of detention ie. 10.08.2017 till the actual release. Such order also shall be passed within a period of one week from the date of receipt of a copy of this order. Accordingly, the writ petition is disposed of. No Costs. Consequently, WMP.No.24910 of 2017 is ordered.

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Index: Yes/no

12.09.2017

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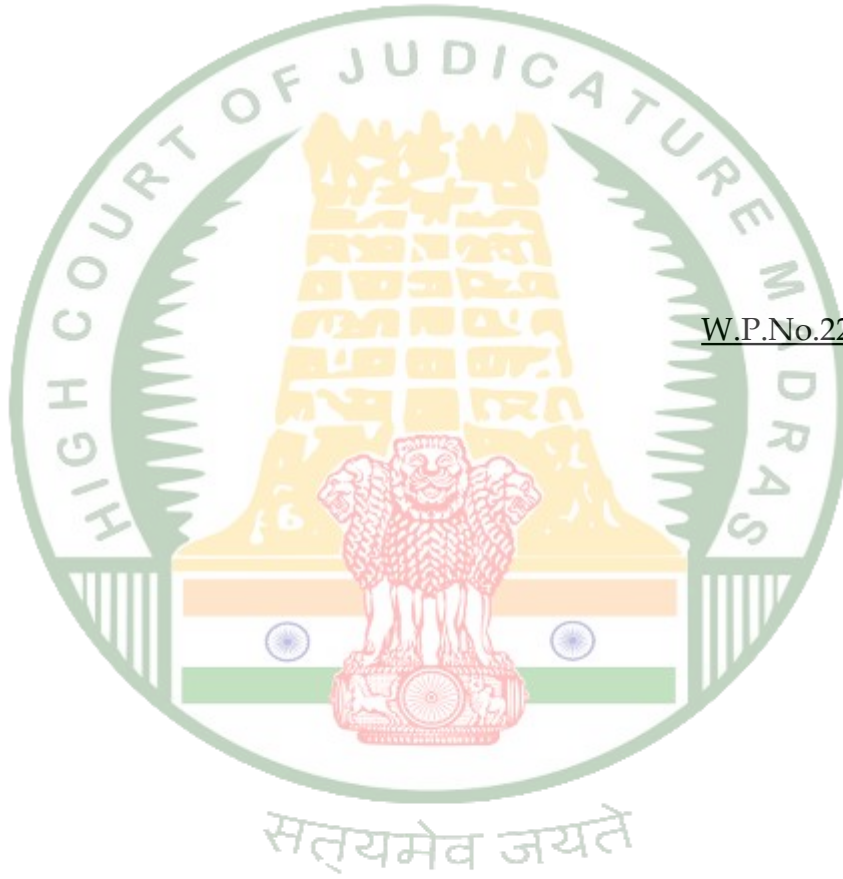
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T.S.SIVAGNANAM, J.

Rkm



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