

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.21871 of 2003

Roja Foods,
7/3, Arul Nagar Salai,
Kodungaiyur,
Chennai - 600 001.

.. Petitioner

Vs

1. The Commissioner of Customs,
'Custom House',
No.33, Rajaji Salai,
Chennai-600 001.

2. The Deputy Commissioner of Customs,
DEPB - Group 7B,
'Custom House',
No.33, Rajaji Salai,
Chennai-600 001.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records pertaining to the impugned show cause notice No.F.No.DEPB/MISC/ 239/03-Gr.7B dated 18.07.2003 issued by the second respondent and quash the same as illegal so far as this petitioner is concerned.

For Petitioner :Mr.G.Derrick Sam

For Respondents :Mr.G.M.Syed Nurullah Sheriff,
Senior Panel Counsel

ORDER

In this writ petition, the petitioner has challenged the show cause notice issued by the respondents stating as to why the goods should not be held partially refined palmolein, why the benefit of concessional rate of duty extended under the various customs Notifications should not be denied, why the differential duty should not be determined and why the product should not be confiscated.

2.The petitioner's case is that they are not the original importer but purchaser of the imported product and the Ex-bond

Bill of Entry was filed by the importer himself and therefore the question of demanding duty from the petitioner, does not arise.

3. At the time when this writ petition was admitted, the interim relief was rejected and the miscellaneous petition was dismissed on 29.08.2003. It is not clear whether this case has already been adjudicated or not. In any event, the issue raised by the petitioner is not a pure question of law, but a mixed question of law and fact and the petitioner has to essentially submit himself to the jurisdiction of the respondents, by submitting reply to the show cause notice. Therefore, at this juncture, this Court is not inclined to set aside the show cause notice, but would give opportunity to the petitioner to file objections, within a period of thirty days from the date of receipt of a copy of this order.

4. With the above observation, the writ petition is dismissed. No costs.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

vsm
To

1. The Commissioner of Customs,
'Custom House',
No.33, Rajaji Salai,
Chennai-600 001.
2. The Deputy Commissioner of Customs,
DEPB - Group 7B,
'Custom House',
No.33, Rajaji Salai,
Chennai-600 001.

+1 CC to Ms. HariRadhakrishnan, Advocate sr 51512.

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PPA (CO)
sp(10/08/2017)