

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

W.P.NO.19438 OF 2003
AND W.P.M.P.NO.24270 OF 2003

Charminar Export
163, Surya Narayana Chetty Street,
Royapuram,
Chennai - 600 013.
Rep. By its Managing Partner
Mr.Rakesh Kumar Jain Petitioner

Vs.

- 1.Joint Director General of Foreign Trade
O/o. Joint Director General of Foreign Trade
38-39, Whites Road, Royapettah,
Chennai - 600 014.
- 2.Commissioner of Customs
(Sea Exports)
Customs House
Rajaji Salai,
Chennai - 600 001. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India by with a prayer to issue a Writ of Mandamus, directing the second respondent to release the remaining goods weighing 39.870 MTS and 6.110 MTS lying at No.52, Vaidyanatha Street, Tondiarpet, Chennai - 600 081 and 125/2 Manali Express Road, Ernavur, Chennai - 600 057 respectively out of total 134.03 MTS seized and continued to be detained taking into consideration of the 36 Lakhs of rupees and 10 Lakhs of rupees bank guarantee already paid and furnished by the petitioner.

For Petitioner : Mr.K.M.Vijayan
Senior Counsel
for Mr.M.Lakshmipathi

For Respondents: Mr.J.Madhana Gopal Rao

O R D E R

In this writ petition, the petitioner seeks for a direction to the respondents to release his goods being 39.870 MTS and 6.110 MTS lying in his godown.

2. The facts of the case have been set out in paragraph no.3 of the counter affidavit filed by the second respondent, which reads as follows:-

"3.I submit that a specific intelligence was received by the Director of Revenue Intelligence that the petitioner having availed the duty free clearance under Customs Notification 30/97, had diverted stainless steel sheets which were imported duty free under the Duty Exemption Entitlement Certificate Scheme which is available only to the actual user to M/s. VKN Industries and two other places. This respondent searched the premises of M/s.Modern Steel and M/s.Baburam Premchand and a total quantity of 134.03 mts of imported stainless steel coil / sheets which were found diverted / sold and kept in the said two places illegally, were seized under the mahazar since the places are in violation of the conditions of Notification 30/97. The petitioner's Company instead of utilizing the steel sheets in their factory for manufacture of exports products, have diverted them to the 3rd place which does not have any manufacturing or cutting facilities.

4.On investigation the third party admitted the above said offence and gave a statement to that effect, which reveals that the importer had violated the conditions. Because of the violation the petitioner company were required to show cause why the stainless steel / coil sheet of 110 mts valued at Rs.4,39,920/- seized on 5.12.2002 should not be confiscated under Section 111(0) of the Customs Act, 1962."

3. As stated above, a show cause notice in F.No.VIII/48/86/2002-DRI was issued by the respondents to the petitioner, challenging which, the petitioner filed a writ petition in W.P.No.19150 of 2003 and obtained stay of the show cause notice. Simultaneously, the petitioner has filed the present writ petition for a direction to the respondents to release his goods.

4. At the time of admission, this Court has passed the following order in W.M.P.No.24270 of 2003 in W.P.No.19438 of 2003, which reads as follows:-

"Considering the fact that the petitioner has already paid a sum of Rs.36 Lakhs by cash and furnished bank guarantee for Rs.10 Lakhs, I direct the petitioner herein to execute personal bond for the remaining amount in favour of the respondents and the respondents are directed to release the goods within one week thereafter. Notice."

5. By virtue of this interim order, it is represented that the goods have been released to the petitioner, after he executed the necessary bond.

6. This Court has dismissed the writ petition in W.P.No.19150 of 2003 on 04.01.2017 upholding the show cause notice issued by the DRI and directing the authorities to proceed further against the petitioner.

7. Under such circumstances, the present writ petition, which is based on the said show cause notice, becomes infructuous and accordingly, the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

TK

To

1.Joint Director General of Foreign Trade
O/o. Joint Director General of Foreign Trade
38-39, Whites Road, Royapettah,
Chennai - 600 014.

WEB COPY

2.Commissioner of Customs
(Sea Exports)
Customs House
Rajaji Salai,
Chennai - 600 001.

+1cc to Mr.V.Sundaresuwaran, Advocate sr.3227

W.P.NO.19438 OF 2003

ksj[co]
srg 31/01/2017



WEB COPY