



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2017

WEB COPY

CORAM:

THE HON'BLE Mr.JUSTICE K.KALYANASUNDARAM

WP(MD)No.15758 of 2017

and

WMP(MD)Nos.12464 and 12465 of 2017

M/s.Tamil Nadu Enterprises,
represented by its Prorietor Mr.Mohammed Ilyas,
son of Moosa Bhai,
New No.1, Gajapathy Street,
Shenoy Nagar, Chennai-600 030.

... Petitioner

Vs.

1. The Commissioner of Food Safety,
Office of the Commissioner of Food safety,
5th Floor of DMS Office Building,
259, Anna Salai, DMS Campus, Teynampet,
Chennai-600 006.

2. The Designated Officer,
The Tamil Nadu Food Safety and Drug Administration Department,
Office of the Deputy Director of Health Services,
Multipurpose Health Supervisors (F) Training School,
Viswanathapuram, Madurai-625 014

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the Notification under No.VI(1)/155(a)/2017, dated 23.05.2017, on the file of the 1st respondent herein and to quash the same as illegal as far as the "Chewing Tobacco" is concerned.

For Petitioner	: Mr.K.R.Laxman
For Respondents	: Mr.G.Muthukannan
	Government Advocate

ORDER

The petitioner has come up with the present writ petition to quash the notification of the 1st respondent, dated 23.05.2017 as illegal in so far as 'Chewing Tobacco' is concerned.



2. Heard Mr.K.R.Laxman, learned counsel for the petitioner and Mr.G.Muthukannan, learned Government Advocate for the respondents and perused the materials available on record.

3. According to the petitioner, it is a registered proprietorship firm with GST Registration of Government of India and Government of Tamil Nadu and it is dealing with tobacco produces since 2001 with prior licenses obtained and without violating any provision of law.

4. Mr.G.Muthukannan, learned Government Advocate for the respondents would submit that the 1st respondent has rightly passed the impugned order and there is no illegality in the order passed by the first respondent.

5. By the impugned notification, the 1st respondent initiated proceedings against the petitioner for violation of provision of Food Safety and Standards Act, 2006 and the Food Safety and Standards (Prohibition and Restrictions on Sales) Regulations, 2011. The notification is challenged by the petitioner mainly contending that since he is the dealer of TOBACCO products, the provisions referred in the notification have no application.

6. It is not in dispute that the issue involved in this Writ Petition is covered by the order of this Court passed in W.P.No.21 of 2017, dated 09.06.2017.

7. Following the said order, the order impugned, dated 23.05.2017, in the Writ Petition is set aside and the Writ Petition is allowed. No costs. Consequently, consequently Miscellaneous Petitions are closed. However, it is made clear that this order will not stand in the way the appropriate authority to take action under COTA (Cigarettes and Other Tobacco Products Act, 2003).

Sd/-
Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To

1. The Commissioner of Food Safety,
Office of the Commissioner of Food safety,
5th Floor of DMS Office Building,
250 Anna Salai, DMS Campus, Teynampet,
Chennai-600 006.



2. The Designated Officer,
The Tamil Nadu Food Safety and Drug Administration Department,
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er
MK/MR KKR/SAR-1/13.10.2017/3P/3C

W.P (MD) .No.15758 of 2017
18.09.2017