



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 18.09.2017

CORAM:

THE HON'BLE Mr. JUSTICE K.KALYANASUNDARAM

WEB COPY

WP(MD)No.16003 of 2017

and

WMP(MD)Nos.12675 and 12676 of 2017

M/s.Shri Nakoda Agencies,
represented by its Proprietor Mr.G.Pawan Kumar
S/o.Gowtham Chand,
No.51/3, Jain Complex,
Diamond Bazaar, Trichy-8.

... Petitioner

Vs.

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.

... Respondent

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 respondent herein and to quash the same as illegal as far as the "Chewing Tobacco" is concerned and further forbear the respondents from seizing Hans Chhap Tobacco dealt by the petitioner concern.

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

ORDER

The petitioner has come up with the present writ petition to quash the notification of the respondent, dated 23.05.2017 as illegal in so far as ''Chewing Tobacco'' is concerned and to forbear the respondent from seizing Hans Chhap Tobacco dealt by the petitioner concern.

2.Heard Mr.K.R.Laxman, learned counsel for the petitioner and Mr.G.Muthukannan, learned Government Advocate for the respondent 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 2016 with prior licenses obtained and without violating any provision of law.

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

5.By the impugned notification, the 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,
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.

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MK/MR KKR/SAR-1/13.10.2017/2P/3C

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W.P (MD) .No.16003 of 2017
18.09.2017