

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP NO. 24503 OF 2016 (O&M)
DECIDED ON : 05.04.2017**

M/s Global Impex

...Petitioner

versus

Union of India and others

...Respondents

**CORAM : HON'BLE CHIEF JUSTICE S.J. VAZIFDAR
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present : Mr. Jagmohan Bansal, Advocate,
for the petitioner.

Mr. Sourabh Goel, Advocate,
for the respondents.

S.J. VAZIFDAR, CHIEF JUSTICE (ORAL)

The petitioner imported 22 items against two bills of entry. The Quarantine Clearance Certificates were issued in respect of 08 of them by the Ministry of Agriculture and Farmer Welfare, Department of Animal Husbandry, Dairying & Fisheries, Government of India (hereinafter referred to as the 'concerned authority').

Pursuant to the interim order dated December 12, 2016, the documents mentioned in paragraph 12 of the petition, were furnished before the concerned authority, as well as to the customs authorities. By our interim order dated February 23, 2017, respondent

No.2 was directed to draw samples and to forward the same to respondent No.3 for carrying out the necessary tests, but without prejudice to the contentions of the parties. Respondents No.2 and 3 are the Deputy Commissioner of Customs and Director of the concerned department. It was clarified that the goods being tested, does not mean that the goods will be cleared for home consumption.

By a notification dated 16.10.2014 issued in exercise of powers under Sections 2 and 3-A of The Livestock Importation Act, 1898, the Central Government notified the livestock products and the procedure for issuance of Sanitary Import Permit (SIP) of such products. They included products containing egg and egg powder. The consignment in the present case admittedly contained egg. The relevant part of the notification reads as under :-

- "2. The import of these products shall be allowed only against a sanitary import permit to be issued by this Department as per the procedure laid down in the Schedule annexed to this notification.
3. This notification shall come into force on the date of its publication in the Official Gazette.

SCHEDULE (see para 2)

Procedure for import of livestock products into India All live-stock products shall be imported into India subject to the following conditions, namely:-

- (1) No live-stock product shall be imported into India without a valid sanitary import permit issued under clause (3).
- (2) All applications for a permit to import consignments by land, air or sea shall be made in either Form A or Form B, whichever is relevant, and sent in triplicate to

the Joint Secretary, Trade Division, Department of Animal Husbandry, Dairying and Fisheries, Ministry of Agriculture, Government of India.

(3) (i) The sanitary import permit shall be issued for import of livestock products if, after a detailed import risk analysis, the concerned authorities are satisfied that the import of the consignment will not adversely affect the health of the animal and human populations of this country.

(ii) The import risk analysis shall be conducted by the concerned officers of the Department on the basis of internationally recognised scientific principles of risk analysis and the analysis shall be conducted with reference to the specific product and the disease situation prevailing in the exporting country vis-a-vis the disease situation in India.

(iii) The issue of permits shall be refused if the results of the import risk analysis show that there is a risk of the specific product bringing in one or more specific diseases, which are not prevalent in the country and which could adversely affect the health and safety of the human and animal populations of this country.

(iv) The import permit shall lay down the specific conditions that will have to be fulfilled in respect of the consignment, including pre-shipment certifications and quarantine checks.

(v) The permit shall also specify the post-import requirements with regard to quarantine inspections, sampling and testing.

(vi) The Sanitary Import Permit shall be valid for a period of one year for import of processed livestock products such as heat treated milk and milk products, fishery products, meat products of poultry, pig, sheep and goat, pet food, processed pig bristles and processed feather.

Provided that validity of permit issued for import of unprocessed livestock products shall be valid for six months but may be extended by the Central Government for a further period of six months, on request from the importer and for reasons to be recorded in writing.

(4) All livestock products shall be imported into India through the seaports or airports located at Delhi, Mumbai, Kolkata, Chennai, Bangalore and Hyderabad where the Animal Quarantine and Certification Service Stations are located.

(5) (i) On arrival at the entry point, the livestock product shall be inspected by the Officer-in-charge of the Animal Quarantine and Certification Service Station or any other veterinary officer duly authorised by the Department of Animal Husbandry, Dairying and Fisheries from time to time.

(ii) After inspection and testing, wherever required, the concerned quarantine or veterinary authority shall accord quarantine clearance of the entry of the livestock product into India or, if required in public interest, order its destruction or its return to the country of origin.

(iii) Wherever disinfection or any other treatment is considered necessary in respect of any livestock product, the importer shall, on his own or at his cost

through an agency approved by the Department of Animal Husbandry, Dairying and Fisheries, arrange for disinfection or other treatment of the consignment, under the supervision of a duly authorised quarantine or veterinary officer.

- (6) It shall be the responsibility of the importer -
- (a) to bring the livestock product to the concerned Animal Quarantine and Certification Services Station, or to the place of inspection, disinfection or treatment or testing as directed by the Quarantine or veterinary officer duly authorized on his behalf;
 - (b) to open, repack and load into or unload from the Animal Quarantine Station and seal the consignment and;
 - (c) to remove them after inspection and treatment or testing, according to the directions of the Quarantine or veterinary officer duly authorized by the Department.
- (7) The Central Government may, in public interest, relax any of the conditions specified under this Schedule relating to the permit in relation to the import of any live-stock product.

Mr. Bansal, learned counsel appearing on behalf of the petitioner states that applications for the Sanitary Import Permit (SIP) were submitted by the petitioner which are at Annexures P-8 and P-9. He further states that it was on the basis of the said applications, that 08 consignments were in fact cleared. In any event, to leave no room for doubt, the authorities shall be entitled to ask for any other

information as well. The Animal Quarantine and Certification Services (AQCS) have cleared those consignments on 20.10.2016. Mr. Goel, learned counsel appearing on behalf of the respondents confirms the same. As a matter of fact, the customs authorities have also got the same tested by the authorities under the Food Safety and Standards Act, 2006. Mr. Bansal, states that even this authority has cleared the goods as being safe for human consumption. These certificates are at Annexures P-6 and P-7. The petitioner is at liberty to forward the same also to the concerned authority. Mr. Goel, confirmed that the certificate of the Animal Quarantine and Certification Services (AQCS) meets the requirement of Clause-IV of the Schedule to the said notification as it has been issued by the Animal Quarantine and Certification Services (AQCS) at Delhi.

There remains, therefore, only one further step for the release of the goods and that is the issuance of a Sanitary Import Permit (SIP) by the concerned authority, as stipulated in paragraph 3 of the Schedule to the said notification. The concerned authority shall now consider the petitioner's application for issuance of a Sanitary Import Permit (SIP) in accordance with the said notification. In the event of the concerned authority requiring any information, they shall do so by April 19, 2017. The concerned authority shall decide the same within seven days of the receipt of the reply from the petitioner. The petitioner is at liberty to draw the attention of the concerned authority to the alleged clearance of similar goods in similar circumstances at other ports such as Mundra Port and Ludhiana Port.

The instant writ petition stands disposed of accordingly.

(S.J. VAZIFDAR)
CHIEF JUSTICE

APRIL 05, 2017
shalini

(ANUPINDER SINGH GREWAL)
JUDGE

Whether speaking/reasoned : YES/NO

Whether reportable : YES/NO