

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 24.10.2018

CORAM
THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.15016 of 2018
in
W.M.P.No.17786 of 2018

M/s.Enzyme India Pvt.Ltd.
No.111, Jyothi Venkatachalam Salai,
Atkinson Road, Vepery,
Chennai - 600 007
by its Director Vishal R.Mehta

..Petitioner

Vs.

1. The Joint Commissioner of Customs (Gr.2)
No.60, Rajaji Salai, Customs House,
Chennai - 600 001.

2. The Deputy Commissioner of Customs (Gr.2)
No.60, Rajaji Salai Customs House,
Chennai - 600 001.

..Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent herein to assess and permit the clearance of goods, covered by Bill of Entry No.3230848 dated 14.09.2017 upon the payment of applicable duties of customs.

For Petitioner : Mr.S.Baskaran

For Respondents : Mr.T.L.Thirumalaisamy,
Central Govt.Standing Counsel

O R D E R

The petitioner seeks for a Mandamus directing the second respondent to assess and permit the clearance of goods, covered by Bill of Entry No.3230848 dated 14.09.2017 upon the payment of applicable duties of customs.

2. Heard both sides.

3. The petitioner is engaged in the business of import and trading of various goods. They filed the Bill of Entry No.3230848 dated 14.09.2017 for clearing certain consignments

imported from a foreign country. The grievance of the petitioner is that the said Bill of Entry dated 14.09.2017 has not been disposed of by the second respondent till this date. Therefore, the present writ petition is filed seeking for a direction to the second respondent as stated supra.

4. A counter affidavit is filed by the respondents wherein it is stated that the Bill of Entry filed by the petitioner was selected for Animal Quarantine NOC as per Single Window System for clearance and the said authority refused to grant NOC on the reason that the item under import was not under the list of items permitted for 'Animal Feed Additive'. It is further stated in the counter that the petitioner want to change the classification to chapter 38 and submitted a declaration that item will be used as water purifying chemical. It is further stated that since the said item under import is with description 'Animal Feed Additive' and has already been rejected by Animal Quarantine authorities, the change of classification is not justifiable.

5. Even though it is stated so in the counter, the fact remains that till this date, the respondents, more particularly, the second respondent has not passed any order on the Bill of Entry filed by the petitioner dated 14.09.2017. Needless to say that only when an order in writing is passed on the said Bill of Entry, the petitioner will be in a position to work out their remedy in the manner known to law as against such order, if the same is passed against the petitioner. By not passing any order in writing, the respondents are not justified in stating the reasons for rejecting the request of the petitioner by way of a counter affidavit.

6. Therefore, this Writ Petition is disposed of by directing the second respondent to pass a speaking order and communicate the same to the petitioner in respect of the Bill of Entry filed by them dated 14.09.2017. Such exercise shall be done by the second respondent within a period of three weeks from the date of receipt of a copy of this order. If any such order is passed against the interest of the petitioner, it is open to the petitioner to challenge the same before the appropriate forum in the manner known to law. No costs. consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

vsi

To

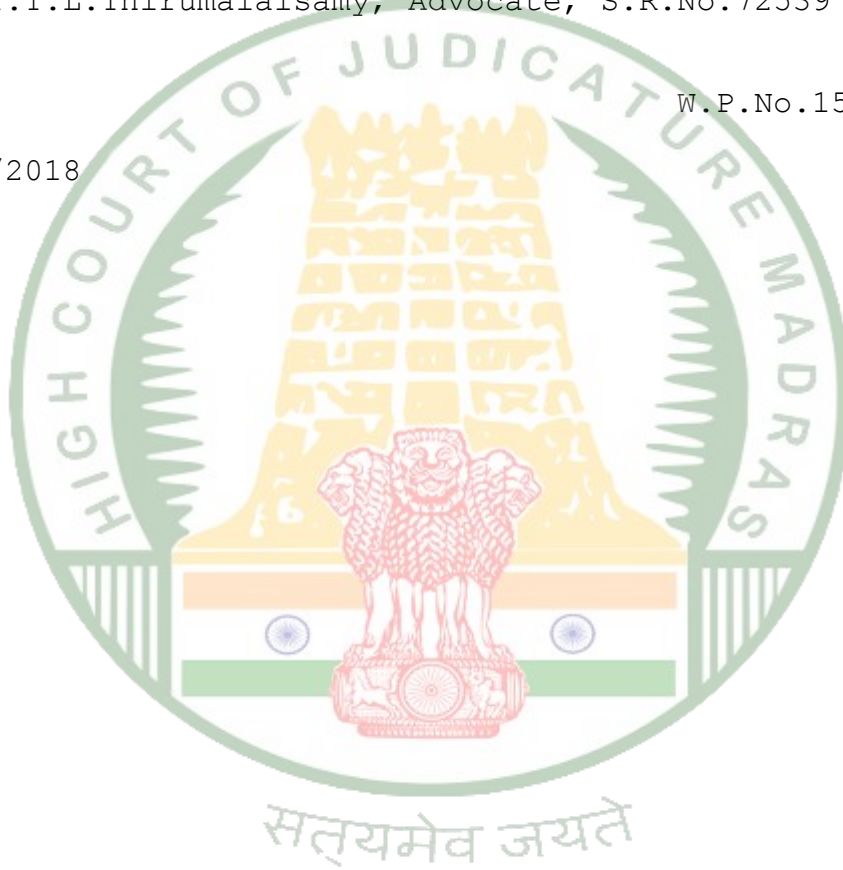
1. The Joint Commissioner of Customs (Gr.2)
No.60, Rajaji Salai, Customs House,
Chennai - 600 001.
2. The Deputy Commissioner of Customs (Gr.2)
No.60, Rajaji Salai Customs House,
Chennai - 600 001.

+lcc to Mr.S.Baskaran, Advocate, S.R.No.72509

+lcc to Mr.T.L.Thirumalaisamy, Advocate, S.R.No.72539

W.P.No.15016 of 2018

rrs 26/10/2018



WEB COPY