

In the High Court of Judicature at Madras

Dated : 02.08.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

W.P.No.15966 of 2018

M/s.Paragon Chemicals

Rep. by its Partner: Ajit Kankariya

No.65/61, Thirumangalam Road

1st Floor, Villivakkam

Chennai - 600 049

... Petitioner

Vs

1.The Commissioner of Customs (Imports)

(Appraising Group 1A)

Customs House, 60 Rajaji Salai

Chennai - 600 001

2.Additional Director General

Directorate of Revenue Intelligence

Chennai Zonal Unit

Chennai - 600 017

... Respondents

Writ petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to release the cargo covered under the Bill of Entry, B.E.No.6065045 dated 20.04.2018, which was assessed and customs duty of Rs.3,81,563/- and IGST of Rs.14,49,177.00 and Education Cess Rs.38,156/- paid on 20.04.2018.

For Petitioner : Mr.K.Jayachandran

For Respondents :Mr.V.Sundareswaran

Senior Panel Counsel for R1

Ms.Aparna Nandakumar for R2

ORDER

Heard Mr.K.Jayachandran, learned counsel for the petitioner, Mr.V.Sundareswaran, learned Senior Panel Counsel for the first respondent and Ms.Aparna Nandakumar, learned counsel for the second respondent.

2. The petitioner seeks for a direction to the respondents to release the cargo covered under the Bill of Entry, B.E.No.6065045 dated 20.04.2018, which was assessed to customs duty of Rs.3,81,563/-, IGST of Rs.14,49,177.00 and Education Cess of Rs.38,156/-, which were paid on 20.05.2018.

3.The Cargo, which was imported by the petitioner was declared as "Mineral Oil" (industrial use only) from United Arab Emirates through Chennai port and the petitioner filed Bill of Entry viz., B.E.No.6065045 dated 20.04.2018. The said Cargo has now been confiscated under the provisions of the Customs Act, 1962 pursuant to the orders of the second respondent as the test report on the samples drawn from the Cargo states that the cargo contains a characteristic of kerosine vide letter of the Joint Director, Custom House Laboratory, in Lab Nos.07/DSM/25.04.2018 dated 27.04.2018. The second respondent would further state that the petitioner has smuggled into India under the guise of Mineral Oil viz., Kerosene, which is of canalized item, requiring a special import licence from the Ministry of Petroleum and as per the import policy, Kerosene can be marketed / disposed only through State Trading Enterprises.

4. In the light of the stand taken by the second respondent in the counter affidavit, the petitioner should not be left without any remedy. The reasons for confiscation appears to be based on the test report of the Custom House Laboratory. The petitioner is entitled to know the result of such test and a copy of the test report should be furnished to the petitioner to work out their remedy in accordance with law. Therefore, this Court is of the view that at this stage the relief sought for by the petitioner cannot be granted. However, this Court will give appropriate direction so that the petitioner should not be left without any remedy.

Accordingly, this writ petition is disposed of by directing the second respondent to furnish copy certified true copy of the test report of the Joint Director, Custom House Laboratory, dated 27.04.2018 in Lab Nos.07/DSM/25.04.2018 to the petitioner within a period of three days from the date of receipt of a copy of this order. On receipt of the certified copy of the test report, the petitioner is at liberty to work out their remedy in accordance with law. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gpa

To

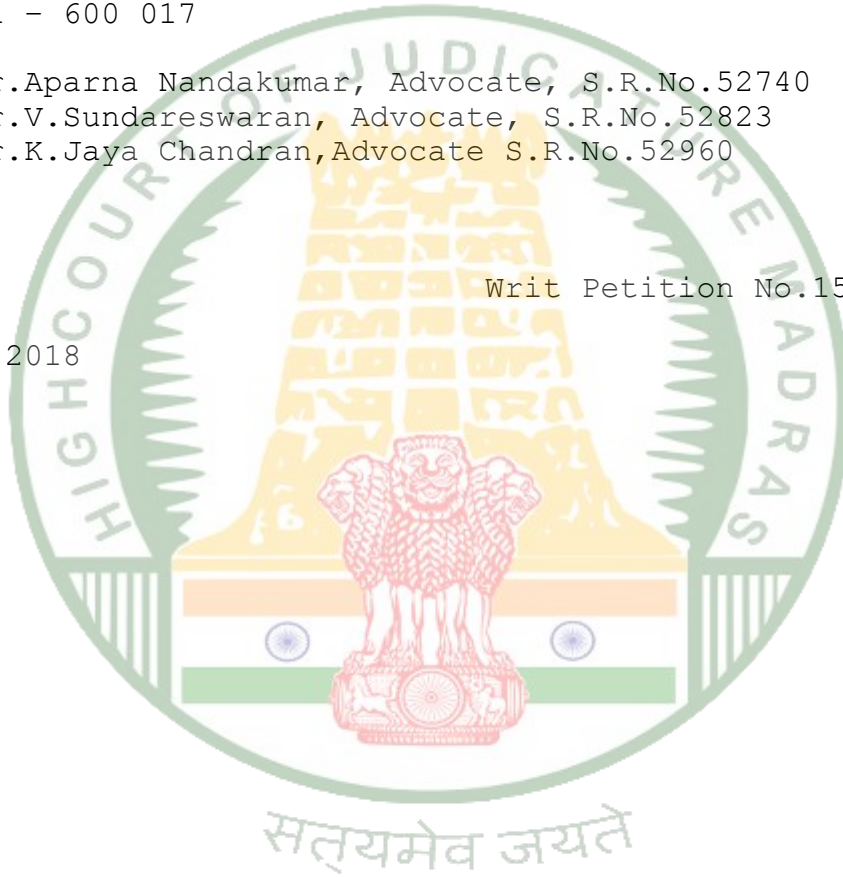
1.The Commissioner of Customs (Imports)
(Appraising Group 1A)
Customs House, 60 Rajaji Salai
Chennai - 600 001

2.Additional Director General
Directorate of Revenue Intelligence
Chennai Zonal Unit
Chennai - 600 017

+1cc to Mr.Aparna Nandakumar, Advocate, S.R.No.52740
+1cc to Mr.V.Sundareswaran, Advocate, S.R.No.52823
+1cc to Mr.K.Jaya Chandran, Advocate S.R.No.52960

Writ Petition No.15966 of 2018

RR(CO)
SMI/07.08.2018



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