

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2018

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition Nos.8912 & 8201 of 2017
and
WMP Nos.9831 & 8961 of 2017

M/s.Johnrose Exports

Rep. by its Proprietor Mr.T.M.K.Philipraj
No.11/6, Second Trust Link Street
Mandaveli, Chennai-600 028.

.... Petitioner(in both WPs)

Vs.

1. The Commissioner of Customs (Group 7H)
Custom House
No.60, Rajaji Salai, Chennai-600 001.
2. The Joint/Additional Commissioner of Customs (Group 7H)

Custom House, No.60, Rajaji Salai,
Chennai-600 001.
3. The Deputy Commissioner of Customs (Group-7H)
Custom House, No.60, Rajaji Salai,
Chennai-600 001. ...Respondents (in both WPs)

Writ petition No.8912 of 2017 filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents herein to release the goods viz., 35 cartons of Plastic Toy Puzzle, 50 cartons of Plastic Toy Horse, 101 Cartons of Plastic Toy Rattle, 10 cartons of Plastic Toy Ball, 27 cartons of Stationery pen, 41 cartons of Glass Beads (Garments Accessories) 46 cartons of Glass Beads (Garments Accessories), 100 cartons of Broom Stick, 104 cartons of Glass Stone Beads (Chatton Assorted sizes), 30 cartons of Glass Stone Beads (Chatton Assorted sizes), 40 cartons of Glass Stone Beads (Chatton Assorted sizes), 31 cartons of Glass Stone Beads (Chatton Assorted sizes), 20 cartons of Glass Stone Beads (Chatton Assorted sizes), 107 cartons of Glass Stone Beads (Chatton Assorted sizes), 50 cartons of Glass Stone Beads (Chatton Assorted sizes), imported vide Bill of Entry No.8661022, dated 23.02.2017, on the value declared by the petitioner at USD 112702.46 totally.

Writ petition No.8201 of 2017 filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents herein to release the goods viz., 16 cartons of Plastic Toy Baby Chair, 138 cartons of Plastic Toy Ball, 700 cartons of Party Snow Spray, 150 cartons of Broom Stick, 36 cartons of small size 10-38 Glass Stone Beads, 45 cartons of small size 12-38 Glass Stone Beads, 75 cartons of small size 7-12 Glass Stone Beads, 60 cartons of small size 12-16 Glass Stone Beads, 119 cartons of small size 7-12 Glass Stone Beads, 30 cartons of small size 7-27 Glass Stone Beads and 20 cartons of Glass Beads for Garments, imported vide Bill of Entry No.8144886 dated 10.01.2017 on the value declared by the petitioner at USD 22338.87 totally.

For Petitioner : Mr.A.K.Jayaraj
(in both Wps)

For Respondents : Mr.V.Sundareswaran
Senior Panel Counsel
(in both WPs)

C O M M O N O R D E R

In both these writ petitions, the petitioner is one and the same, who seeks for a direction to the respondents to release the subject matter goods imported through the respective Bills of Entry referred to in these writ petitions.

2. Today, when the matter is taken up for further hearing, it is represented by both sides that the subject matter goods imported through the Bill of Entry No.8661022, dated 23.02.2017 referred to in WP.No.8912 of 2017, has already been released. Insofar as the subject matter goods imported through the Bill of Entry No.8144886 dated 10.01.2017 referred to in WP.No.8201 of 2017 is concerned, it is stated that the goods are not released, however, a show cause notice has been issued to the petitioner.

3. Therefore, it is stated by the learned Senior Panel Counsel for the respondents that the Department will proceed in accordance with law in pursuant to the issuance of such show cause notice. He also submitted that liberty may be given to the respondents to proceed against the petitioner, by issuing a show cause notice in respect of the goods imported through the Bill of Entry No.8661022, dated 23.02.2017 referred to in WP.No.8912 of 2017, if it is so warranted.

4. As against the above said submission of the learned Senior Panel Counsel seeking liberty to proceed in WP.No.8912 of 2017, the learned counsel for the petitioner objected, by saying that the respondents cannot get extension of time, by way of getting liberty from this Court, as such proceedings are also barred under law.

5. This Court, at this stage, is not expressing any view on the respective claims made by the parties, as the prayer sought in WP.No.8912 of 2017 is a simple mandamus to release the goods and admittedly, as the goods have already been released, WP.No.8912 of 2017 is dismissed as infructuous, leaving the parties to work out further course of action, if any, available, in accordance with law. Insofar as WP.No.8201 of 2017 is concerned, as it is stated that a show cause notice has already been issued, it is for the respondents to complete the adjudication proceedings and pass final orders in original, within a period of eight weeks from the date of receipt of a copy of this order. Accordingly, WP.No.8201 of 2017 is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Customs (Group 7H)
Custom House
No.60, Rajaji Salai, Chennai-600 001.
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Custom House, No.60, Rajaji Salai,
Chennai-600 001.
3. The Deputy Commissioner of Customs (Group-7H)
Custom House, No.60, Rajaji Salai,
Chennai-600 001.

+1cc to Mr.A.K.Jayaraj, Advocate Sr.66480
+2cc to Mr.V.Sundareswaran, Advocate Sr.66465

W.P.Nos.8912 & 8201 of 2017

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srg 11/10/2018