

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

Writ Petition No.32261 of 2018

and

W.M.P.No.37511 of 2018

MSC Agency (India) Private Limited
1st Floor, KGN Towers,
No.62, Ethiraj Salai,
Egmore, Chennai - 600 015.
Rep. by its Authorised Signatory
A.Umaibalan

.. Petitioner

Vs.

- 1.The Chief Commissioner of Customs,
Office of the Commissioner of Customs (Sea Port),
Customs House, No.66, Rajaji Salai,
Chennai - 600 001.
- 2.The Commissioner of Customs (Imports)
Office of the Commissioner of Customs (Sea Port),
Customs House, No.66, Rajaji Salai,
Chennai - 600 001.
- 3.The Commissioner of Customs (Group VIII)
Office of the Commissioner of Customs (Sea Port),
Customs House, No.66, Rajaji Salai,
Chennai - 600 001.
- 4.Calyx Container Terminal Private Limited,
No.28, GNT Road, (NH 5)
Puzhal Junction, Kathirvedu Village,
(Near Erattai Eri), Chennai - 600 066.
Rep. by its Director

.. Respondents

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the third respondent for initiating proceedings for in terms of Rule 11 & 12 of the Handling of Cargo in Customs Area Regulations, 2009 (as amended), against the fourth respondent.

For Petitioner :Mr.P.Giridharan

For Respondents: Mr.Raj Kumar Jabhuk,
Standing Counsel for RR 1 to 3
Mr.K.Bijai Sundar for R4

O R D E R

The prayer in this writ petition is seeking for Mandamus directing the 3rd respondent for initiating proceedings in terms of Rule 11 and 12 of the Handling of Cargo in Customs Area Regulations, 2009, against the 4th respondent.

2. The grievance of the petitioner is that the 4th respondent is illegally releasing the container belonging to the petitioner against the terms of the regulations. Therefore, the petitioner seeks for action against the 4th respondent at the hands of the 1st to 3rd respondents.

3. Today, when the matter is taken up for further hearing, after notice, the learned counsel appearing for the 1st and 3rd respondents, based on instructions, submitted that the Department of Chennai Customs has already started investigation into the matter and the same is going on. He further submitted that on completion of the investigation, appropriate action will be taken against the 4th respondent, if found guilty. He also produced a letter addressed by the Deputy Commissioner Customs dated 11.12.2018 to the learned counsel appearing for the 1st to 3rd respondents indicating the above said fact. Learned counsel for the 4th respondent, however, seeks time to file counter.

4. Since, the prayer sought for in this writ petition is limited for issuing a direction to the 3rd respondent to initiate proceedings and as it is now stated by the 1st to 3rd respondents that already investigation has commenced, this Court is not inclined to express any view on the merits of the contention made by the petitioner or the 4th respondent, since it is for them to cooperate with investigation and allow the Adjudicating Authority to pass appropriate orders after completion of such investigation. Therefore, in view of the

stand taken by 1st to 3rd respondents as stated supra, this Writ Petition is disposed of, however, by granting liberty to petitioner and 4th respondent to co-operative with the investigation, including by filing an application for interim relief, if any, pending investigation. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsi/vsi

To

- 1.The Chief Commissioner of Customs,
Office of the Commissioner of Customs (Sea Port),
Customs House, No.66, Rajaji Salai,
Chennai - 600 001.
- 2.The Commissioner of Customs (Imports)
Office of the Commissioner of Customs (Sea Port),
Customs House, No.66, Rajaji Salai,
Chennai - 600 001.
- 3.The Commissioner of Customs (Group VIII)
Office of the Commissioner of Customs (Sea Port),
Customs House, No.66, Rajaji Salai,
Chennai - 600 001.
- 4.The Director,
Calyx Container Terminal Private Limited,
No.28, GNT Road, (NH 5)
Puzhal Junction, Kathirvedu Village,
(Near Erattai Eri), Chennai - 600 066.

+1cc to Mr.Rajkumar Jhabakh, Advocate Sr.88097
+1cc to Mr.K.Bijai Sundar, Advocate Sr.88897

W.P.No.32261 of 2018

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srg 23/01/2019