

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2019

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P. Nos. 17387 to 17391, 27439, 29283, 29290, 30602, 30611,
30968 and 30975 of 2018

and

W.P. Nos. 89, 348, 662, 1247, 3106, 3115, 3806, 3848, 3853, 3854
and 3913 of 2019

and

W.M.P. Nos. 20663 to 20677 of 2018

and

W.M.P. Nos. 110, 111, 117, 348, 349, 722, 729, 1405, 1406, 3368,
3369, 3371, 3378, 3380, 3381, 4224, 4226, 4228, 4274, 4275,
4277, 4279, 4281, 4283, 4286, 4287, 4291, 4342, 4346, 4349,
4943, 4946, 19129, 19131, 19293, 19296, 19298, 19442, 19458,
19459, 19739, 19771, 19851, 19931, 19935, 19938, 20021, 20085,
20155 of 2019

M/s. Hira Traders,
No. 89/2, Old No. 44/2,
Varada Muthaiappan Street,
Chennai - 600 001.

Represented by its Partnership

Shri Haji Sumar Kudus ... Petitioner in WPs.17387 to
17390 of 2018

1 M/S.SRI SIVA TRADERS ... PETITIONER in WP No.17391 of 2018
NO. 89/89/1 PERAMBALU STREET CHENNAI 21
REP. BY ITS PROPRIETOR SHRI M.MAGESWARAN

1 M/S.AMRR MAHARAJA DHALL MILL
REP BY ITS PARTNER C.ARUNJUNAI RAJAVEL
W-8/290/29 ESWAR NAGAR UNJAMPATTI VILLAGE
THENI. ... PETITIONER in WP No.27439 of 2018

1 M/S.SHANTHI INTERNATIONAL
REP BY ITS PROPRIETOR MR.AMOL SATISH MITTAL
NO.226 NEW NO.216 THAMBU CHETTY STREET
CHENNAI ... PETITIONER in WP No.29283 of 2018

- 1 M/S.SHRI LAKSHMI DHALL MILL
REP BY ITS PARTNERS.SOMASUNDARAM B-7/208E
COSMOS CLUB ROAD UNJAMPATTY
THENI 625531 ... PETITIONER in WP No.29290 of 2018
- 1 M/S.ASIA MARKETING
REP.BY ITS PARTNER MR.ABHISHEK DILIP JHA
M/A.36 YRS 17/1 RC BUILDING KAMPTEE ROAD
NAGPUR MAHARASTRA-44000
... PETITIONER in WP No.30602 of 2018
- 1 D.G.ENTERPRISES
GENERAL MERCHANTS REP BY ITS AUTHORISED
SIGNATARY P.J.KAVITHA 69/11 ACHARAPPAN
STREET 1ST FLOOR
CHENNAI-1 ... PETITIONER in WP No.30611 of 2018
- 1 M/S.R.R.IMPEX
REP. BY ITS PROPRIETOR MR.RITESH M.JAIN NO.
32 ACHARAPPAN STREET
CHENNAI - 600 001. ... PETITIONER in WP No.30968 of 2018
- 1 M/S. MAITRI INTERNATIONAL

REP. BY ITS PROPRIETOR MR.HEMAN SHANTILAL
NANDU M/A-44 YRS SHOP NO.12/E MARKET YARD
LATUR / MAH.413512 ... PETITIONER in WP No.30975 of 2018
- 1 V.N.MOORTHY AND CO ... PETITIONER in WP No.89 of 2019
REP. BY ITS PROPRIETRIX MRS. KRISHNAMOORTHY
PREMALATHA NO.366 RAMAMOORTHY ROAD
VIRUDHUNAGAR 626001 TAMIL NADU.

- 1 KARUMURI PULSES
REP BY PROPRIETOR MRS.MANJULA KARUMURI
FIRST FLOOR NEW NO.105 OLD NO. 51-1/45
ACHARAPPAN STREET
CHENNAI 1 ... PETITIONER in WP No.348 of 2019
- 1 M/S.HAMZA ENTERPRISES
REP BY ITS PARTNER ERSHAD AHMED MOHD NO.
561 B.D.A. LAND APMC YARD YESHWANTHPUR
BENGALURU URBAN
KARNATAKA 560 022 ... PETITIONER in WP No.662 of 2019
- 1 M/S.AGRO 1 STOP ... PETITIONER in WP No.1247 of 2019
REP BY ITS PROPRIETOR ASHIT KISHORE CHANDRA
CHHEDA S/O.KISHORE CHANDRA HANSRAJ CHHEDA
K-12 PMC MARKET - II PHASE-II DANABUNDER
TURBHE NAVI Mumbai
- 1 M/S.ASIA MARKETING ... PETITIONER in WP No.3106 of 2019
REP. BY ITS PARTNER MR. ABHISHEK DILIP JHA
17/ 1 RC BUILDING KAMPTEE ROAD NAGPUR
MAHARASTRA - 440001
- 1 M/S.ASIA MARKETING ... PETITIONER in WP No.3115 of 2019
REP. BY ITS PARTNER MR. ABHISHEK DILIP JHA
17/ 1 RC BUILDING KAMPTEE ROAD NAGPUR
MAHARASTRA - 440001
- 1 KARUMURI PULSES ... PETITIONER in WP No.3806 of 2019
REP. BY PROPRIETOR MRS. MANJULA KARUMURI
FIRST FLOOR NEW NO. 105 OLD NO. 51-1/ 45
ACHARAPPAN STREET CHENNAI - 600001

1 M/S.KUMAR DHALL MILLS
REP. BY ITS PARTNER MR.R.CHANDRAKUMAR NO.
727 PERIYAKULAM ROAD
THENI ... PETITIONER in WP No.3848 of 2019

1 M/S. ANNAI AGRO AGENCY
REP. BY ITS PROPRIETRIX MISS. PADMINI NO.
9(2E) G.A.ROAD
CHENNAI - 600021 ... PETITIONER in WP No.3853 of 2019

1 M/S.AMRR MAHARAJA DHALL MILL
REP. BY ITS PARTNER C.ARUNJUNAI RAJAVEL
W-8/290/29 ESWAR NAGAR UNJAMPATTI VILLAGE
THENI ... PETITIONER in WP No.3854 of 2019

1 M/S.AMRR MAHARAJA DHALL MILL
REP. BY ITS PARTNER C.ARUNJUNAI RAJAVEL
W-8/290/29 ESWAR NAGAR UNJAMPATTI VILLAGE
THENI. ... PETITIONER in WP No.3913 of 2019

-vs-

1 THE DIRECTOR GENERAL OF
FOREIGN TRADE MINISTRY OF COMMERCE &
INDUSTRIES DEPARTMENT OF COMMERCE UDYOG
BHAVAN H WING GATE NO. 2 MAULANA AZAD ROAD
NEW DELHI - 110011

2 THE JOINT DIRECTOR GENERAL OF
FOREIGN TRADE MINISTRY OF COMMERCE &
INDUSTRIES DEPARTMENT OF COMMERCE UDYOG
BHAVAN H WING GATE NO. 2 MAULANA AZAD ROAD
NEW DELHI - 110011

3 THE ADDITIONAL DIRECTOR
GENERAL OF FOREIGN TRADE 4TH AND 5TH FLOOR
SHASTRI BHAVAN ANNEX BUILDING 26 HADDOWS
ROAD CHENNAI - 600006

- 4 THE COMMISSIONER OF CUSTOMS
CHENNAI II COMMISSIONERATE CUSTOM HOUSE 60
RAJAJI SALAI CHENNAI - 600001
... RESPONDENT in WP No.17387 to
17391 of 2018
- 1 THE DIRECTOR GENERAL OF FOREIGN
TRADE MINISTRY OF COMMERCE AND
INDUSTRIES DEPARTMENT OF COMMERCE UDYOG
BHAVAN H WING GATE NO.2 MAULANA AZAD
ROAD NEW DELHI 110 011.
- 2 THE JOINT DIRECTOR GENERAL OF
FOREIGN TRADE MINISTRY OF COMMERCE AND
INDUSTRIES DEPARTMENT OF COMMERCE UDYOG
BHAVAN H WING GATE NO.2 MAULANA AZAD
ROAD NEW DELHI 11
- 3 THE COMMISSIONER OF CUSTOMS
CHENNAI II COMMISSIONERATE CUSTOM HOUSE
60 RAJAJI SALAI CHENNAI 600 001.
- 4 THE COMMISSIONER OF CUSTOMS
CUSTOM HOUSE NEW HARBOUR ESTATE TUTICORIN
... RESPONDENT in WP No.27439 &
3848,3854 of 2019
- 1 THE DIRECTOR GENERAL OF FOREIGN
TRADE MINISTRY OF COMMERCE AND
INDUSTRIES DEPARTMENT OF COMMERCE UDYOG
BHAVAN H WING GATE NO.2 MAULANA AZAD ROAD
NEW DELHI-110011
- 2 THE JOINT DIRECTOR GENERAL OF
FOREIGN TRADE MINISTRY OF COMMERCE AND
INDUSTRIES DEPARTMENT OF COMMERCE UDYOG
BHAVAN H WING GATE NO.2 MAULANA AZAD ROAD
NEW DELHI-110011

- 3 THE COMMISSIONER OF CUSTOMS
CHENNAI II COMMISSIONERATE CUSTOM HOUSE 60
RAJAJI SALAI CHENNAI-600001
...Respondents in WP.Nos.29283,
29290,30602,30611,30968 and
30975 /2018 and WP.89,348,
662,3106,3115,3806,3853/2019
- 1 THE UNION OF INDIA ... RESPONDENT in WP No.1247 of 2019
REP BY ITS JOINT SECRETARY TO THE GOVERNMENT
MINISTRY OF COMMERCE AND INDUSTRIES
DEPARTMENT OF COMMERCE UDYOG BHAVAN H WING
GATE NO.2 MAULANA A New Delhi-11
- 2 THE DIRECTOR GENERAL OF FORE
IGN TRADE MINISTRY OF COMMERCE AND
INDUSTRIES DEPARTMENT OF COMMERCE UDYOG
BHAVAN H WING GATE NO.2 MAULANA AZAD ROAD
NEW DELHI-110 011
- 3 THE JOINT DIRECTOR GENERAL O
F FOREIGN TRADE MINISTRY OF COMMERCE AND
INDUSTRIES DEPARTMENT OF COMMERCE UDYOG
BHAVAN H WING GATE NO.2 MAULANA AZAD ROAD
NEW DELHI-110 011
- 4.The Commissioner of Customs, Chennai II
commissionerate custom House,
60 Rajaji Salai chennai-1

- 1 UNION OF INDIA ... RESPONDENT in WP No.3913 of 2019
DEPARTMENT OF COMMERCE MINISTRY OF COMMERCE
AND INDUSTRY UDYOG BHAWAN
NEW DELHI 110 107.
- 2 THE DIRECTOR GENERAL OF FORE
IGN TRADE MINISTRY OF COMMERCE AND
INDUSTRIES DEPARTMENT OF COMMERCE UDYOG
BHAVAN H WING GAE NO.2 MAULANA AZAD RAOD
NEW DELHI 110 011.

- 3 THE JOINT DIRECTOR GENERAL OF
FOREIGN TRADE MINISTRY OF COMMERCE AND
INDUSTRIES DEPARTMENT OF COMMERCE UDYOG
BHAVAN H WING GAE NO.2 MAULANA AZAD RAOD
NEW DELHI 110 011.
- 4 THE COMMISSIONER CUSTOMS
CHENNAI II COMMISSIONERATE CUSTOM CUSTOM
HOUSE NO.60 RAJAJI SALAI CHENNAI 600 001.
- 5 THE COMMISSIONER OF CUSTOMS
CHENNAI II COMMISSIONERATE CUSTOM HOUSE NEW
HARBOUR ESTATE TUTICORIN 628004.

WP.No.17387 of 2018:Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in and connected with Notification No. 15/2015-2020 dated 02.07.2018 issued from F. No. M-5012/300/2002-PC2(A)/Part - VI/E-9019 read with Trade Notices No. 19/2018-19 dated 05.07.2018 and No. 21/2018-19 dated 06.07.2018 attributable to the First and Second Respondents and quash the same and further direct the Fourth Respondent to permit clearance of 200000 MTS of Yellow Peas/Green Peas (pisum sativum) falling under EXIM Code 07131000 in terms of Sales Contract No.786/E/0321/18 dated 21.03.2018.

WP No.17388 of 2018

Calling for the records in and connected with Notification No. 15/ 2015-2020 dated 02.07.2018 issued from F.No. M-5012/ 300/ 2002-PC 2(A)/ Part-VI/ E- 9019 read with Trade Notices No. 19/ 2018-19 dated 05.07.2018 and No. 21/ 2018 - 19 dated 06.07.2018 attributable to the 1st and 2nd respondents and quash the same and further direct the 4th respondents to permit clearance of 1,53,000 LBS of Whole Yellow Peas (pisum Sativum) falling under EXIM Code 07131000 in terms of Sales Contract No. 6194D dated 31.03.2018

WP No.17389 of 2018

Calling for the records in and connected with Notification No. 15/ 2015-2020 dated 02.07.2018 issued from F.No. M-5012/ 300/ 2002-PC 2(A)/ Part-VI/ E- 9019 read with Trade Notices No. 19/ 2018-19 dated 05.07.2018 and No. 21/ 2018 - 19 dated 06.07.2018 attributable to the 1st and 2nd respondents and quash the same and further direct the 4th respondents to permit clearance of 5000 MTS of Yellow Peas/ Green Peas (pisum Sativum) falling

under EXIM Code 07131000 in terms of Sales Contract No. 786/ E/ 0472/ 18 dated 05.04.2018

WP No.17390 of 2018

Calling for the records in and connected with Notification No. 15/ 2015-2020 dated 02.07.2018 issued from F.No. M-5012/ 300/ 2002-PC 2(A)/ Part-VI/ E- 9019 read with Trade Notices No. 19/ 2018-19 dated 05.07.2018 and No. 21/ 2018 - 19 dated 06.07.2018 attributable to the 1st and 2nd respondents and quash the same and further direct the 4th respondents to permit clearance of 160 MTS of Peas (*Pisum sativum*) falling under EXIM Code 07131000 in terms of Sales Contract No. 180114 dated 13.01.2018

WP No.17391 of 2018

Calling for records in and connected with Notification No. 15/ 2015-2020 dated 02.07.2018 issued from F.No. M-5012/ 300/ 2002-PC 2(A)/ Part-VI/ E- 9019 read with Trade Notices No. 19/ 2018-19 dated 05.07.2018 and No. 21/ 2018 - 19 dated 06.07.2018 attributable to the 1st and 2nd respondents and quash the same and further direct the 4th respondents to permit clearance of 5000 MTS of Yellow Peas/ Green Peas / Dun Peas / Kaspas Peas (Assorted Quality) falling under EXIM Code 07131000 in terms of Sales Contract No. 2533/PSPIL/786/18-19 dated 19.6.2018

WP No.27439 of 2018

calling for records in and connected with Notification No.37/2015-2020 dated 28.09.2018 issued from F.No.M-5012/300/2002-PC 2(A)/Part - VI/E-9019 attributable to the 1st and 2nd Respondents and quash the same and further direct the 3rd of 4th Respondents to permit clearance of 2000 MTS of green Peas falling under EXIM Code 07131000 in terms of Sales Contract No. SW/41/2018-19 dated 01.10.2018. (prayer amended vide court order dt 23/11/2018 made in WMP.No.35500/18 in WP.No.27439/18)

WP No.29283 of 2018

calling for records in and connected with Notification No.19/2015-2020 dated 5.8.2017 Notification No.22/2015-2020 dated 21.8.2017 and Notification No.06/2015-2020 dated 4.5.2018 read with trade Notice No.06/2018-2019 dated 11.5.2018 bearing No.F.No.M-5012/300/2002-PC2(A) and F.No.01/89/180 /Mis.13/AM-07/PC-2(A) attributable to the 1st Respondent and quash the same and further direct the 3rd Respondent to permit clearance of about 9600 MTS of Pigeon peas(Toor whole) under Exim code 0713 6000 in terms of sales contract No.SOPL/SI/0276/17-18 Dated 10.8.2018

WP No.29290 of 2018
calling for records in and connected with Notification No.19/2015-2020 dated 05/08/2017 Notification No.22/2015-2020 dated 21.8.2017 and Notification No.06/2015-2020 dated 4.5.2018 read with trade notice No.19/2018 dated 25.10.2017 read with trade Notice No.06/2018-2019 dated 11.5.2018 and Trade Notice No. 29/2018/19 dated 30.8.2018 bearing No.F.No.M-5012/300/2002-PC2(A) and F.No.01/89/180 /Mis.13/AM-07/PC-2(A) attributable to the 1st Respondent and quash the same and further direct the 3rd Respondent to permit clearance of about 5000 MTS of Pigeon peas(Toor whole) under Exim code 0713 3100 in terms of sales contract No.GPIL/18-19/017 dated 24.10.2018

WP No.30602 of 2018
calling for records in and connected with Notification No.22/2015-2020 dated 21.08.2017 and Notification No.06/2015-2020 dated 04.05.2018 read with trade notice No.19/2018 dated 25/10/2017 read with trade notice No.06/2018-2019 dated 11/05/2018 bearing No.F.No.M-5012/300/2002-PC 2(A) and F.No.01/89/180/Misc.13/AM-07/PC-2(A) attributable to the 1st respondent and quash the same and further direct 3rd respondent to permit clearance of about 5,000 MTS of Black Mapte/Urad under Exim Code 0713 3100 in terms of Sales Contract No.01/Asia/Nov 2018 Dated.14/11/2018

WP No.30611 of 2018
calling for records in and connected with Notification No.22/2015-2020 dated 21.08.2017 and Notification No.06/2015-2020 dated 04.05.2018 read with trade notice No.19/2018 dated 25/10/2017 read with trade notice No.06/2018-2019 dated 11/05/2018 bearing No.F.No.M-5012/300/2002-PC 2(A) and F.No.01/89/180/Misc.13/AM-07/PC-2(A) attributable to the 1st respondent and quash the same and further direct the 3rd respondent to permit clearance about 20,000 MTS of Pigeon Peas (Toor Whole) under Exim Code 0713 6000 in terms of Sales Contract No.349D/2018 Dated 01/11/2018

WP No.30968 of 2018
Calling for records in and connected with Notification No.19/2015-2020 dated 05.08.2017, Notification No.22/2015-2020 dated 21.08.2017, and Notification No.06/2015-2020 dated 04.05.2018 read with Trade notice No.19/2018 25/10/2017 read with trade notice NO.06/2018-2019 dated 11/05/2018 bearing No.F.No.M-5012/300/2002-PC 2(A) and F.NO.01/89/180/Misc.13/AM-07/PC-2(A) attributable to the 1st Respondent and quash the same and further direct the 3rd respondent to permit clearance of about 5,000 MTS of Pigeon Peas (Toor Whole) under Exim Code 0713 6000 in terms of Sales Contract No.SC 1819/241 DATED10/09/2018

WP No.30975 of 2018

Calling for records in and connected with Notification No.37/2015-2020 dated 28.09.2018 issued from F.No.M-5012/300/2002-PC 2(A) / Part - VI/E-9019 attributable to the 1st and 2nd Respondents and quash the same and further direct the 3rd respondent to permit clearance of 10,000 MTS of Peas falling under EXIM Code 07131000 in terms of Sales Contract No.R1/382/2018 dated 09.11.2018

WP No.89 of 2019

Calling for records in an connected with Notification No.22/2015-20 dated 21/08/2017 and Notification No.6/2015 dated 04/05/2018 read with Trade Notice No.19/2018 dated 25/10/2017 and Trade Notice No.06/2018 -19 dated 11/05/2018 attributable to the 1st and 2nd respondents and quash the same and further direct the 3rd respondent to permit clearance of 10000 MTS of Myanmar Black Matpe (SQ) and 10000 MTS of Myanmar Black Matpe (FAQ) (Urad) falling under Exim Code 0713 3100 in terms of Sales Contract No.MIG/0292/18 dated 06/12/2018

WP No.348 of 2019

calling for records in and connected with Notification Nos.04 and 05/2015-20 dated 25.4.2018 and Notification No. 37/2015-2020 dated 28.9.2018 and Notification dated 28.12.2018 vide S.O. 6364 (E) read with Trade Notice No.05/2018 dated 9.5.2018, Trade Notice NO.10/2018 dated 16.5.2018 and Trade Notice No.12/2018 dated 18.5.2018 attributable to the 1st and 2nd respondents and quash the same and further direct the 3rd respondent to permit clearance of about 50000 MTS of Whole Yellow Peas falling under Exim Code 0713 1000 in terms of Sales Contract No. SC1819/328 dated 15.12.2018

WP No.662 of 2019

calling for records in and connected with Notification No.22/2015-2020 dated 21.8.2017, and Notification No.06/2015-2020 dated 4.5.2018 read with Trade Notice No.19/2018 dated 25.10.2017 read with Trade Notice No. 06/2018-2019 dated 11.5.2018 and Trade Notice No. 29/2015-2020 dated 30.8.2018 bearing No. F.No.M-5012/300/2002-PC 2 (A) and F.NO.01/89/180/Misc.13/ AM-07/PC-2(A) attributable to the 1st and 2nd respondents and quash the same and further direct the 3rd respondents to permit clearance of about 10000 MTS (Approximately) of Black Mapte / Urad under Exim Code 0713 3100 in terms of Sales Contract NO.007/1700002D dated 20.12.2018

WP No.1247 of 2019
calling for the records relating to impugned notification No.04/2015-2020 dated 25.04.2018 issued by the 2nd respondent and the notification in S.O.6364(E) dated 28.12.2018 issued by the 1st Respondent, and the consequential trade notice No.40/2018-19 dated 31.12.2018 issued by the 3rd respondent, quash the same and clear 20,000 MTs of Peas falling under Exim Code 0713 1000 in terms of Sales Contract No.AGS/ 2018/ 155 dated 20.11.2018

WP No.3106 of 2019
Calling for records in and connected with Notification No. 19/2015-2020 dated 05.08.2017, Notification No.22/ 2015-2020 dated 21.08.2017 and Notification No.06/ 2015-2020 dated 04.05.2018 read with trade notice No.19/ 2018 dated 25.10.2017 read with trade notice No.06/ 2018-2019 dated 11.05.2018 bearing No. F.No.M-5012/ 300/ 2002-PC 2(A) and F.No.01/ 89/ 180/ Misc.13/AM-07/ PC-2(A) attributable to the 1st respondent and quash the same and further direct the 3rd respondent to permit clearance of about 20,000 MTS of Pigeon Peas(Toor Whole) under Exim Code 0713 6000 in terms of Sales Contract No. PO1/ JAN/ 2019 dated 14.01.2019

WP No.3115 of 2019
Calling for records in and connected with Notification No.22/2015-2020 dated 21.08.2017 and Notification No.06/ 2015-2020 dated 04.05.2018 read with trade notice No.19/ 2018 dated 25.10.2017 read with trade notice No.06/ 2018-2019 dated 11.05.2018 bearing No. F.No.M-5012/ 300/ 2002-PC 2(A) and F.No.01/ 89/ 180/ Misc.13/AM-07/ PC-2(A) attributable to the 1st respondent and quash the same and further direct the 3rd respondent to permit clearance of about 20,000 MTS of Black Mapte/ Urad Exim Code 0713 3100 in terms of Sales Contract No. PO2/ JAN/ 2019 dated 14.01.2019

WP No.3806 of 2019
Calling for records in and connected with Notification No. 22/2015-20 dated 21.08.2017 and Notification No. 6/ 2015-20 dated 04.05.2018 read with Trade Notice No. 19/ 2018 dated 25.10.2017 and Trade Notice No. 06/ 2018-19 dated 11.05.2018 attributable to the 1st and 2nd respondents and quash the same and further direct 3rd respondent to permit clearance of about 20000 MTS of Myanmar BLACK MATPE(SQ) and 20000 MTS of Myanmar BLACK MATPE (FAQ) (Urad) falling under Exim Code 07133100 in terms of Sales Contract No. 201819-0076 dated 04.02.2019

WP No.3848 of 2019

Calling for records in and connected with Notification No. 22/ 2015-20 dated 21.08.2017 and Notification No. 6/ 2015-20 dated 04.05.2018 read with Trade Notice No. 19/ 2018 dated 25.10.2017 read with Trade Notice No. 06/ 2018-19 dated 11.05.2018 bearing No. F.No.M-5012/ 300/ 2002-PC 2(A) and F.A.No. 01/ 89/ 180/Misc-13/AM-07/ PC-2 (A) attributable to the 1st and 2nd respondents and quash the same and further direct the 3rd respondent to permit clearance of about 5,000 MTS of Green Mung Beans under Exim Code 07133100 in terms of Sales Contract No. SW/ 94/ 2018-19 dated 04.02.2019

WP No.3853 of 2019

Calling for records in and connected with Notification No. 19/ 2015-2020 dated 05.08.2017, Notification No. 22/ 2015-20 dated 21.08.2017 and Notification No. 6/ 2015-20 dated 04.05.2018 read with Trade Notice No. 19/ 2018-19 dated 25.10.2017 read with Trade Notice No. 06/ 2018-19 dated 11.05.2018 bearing No. F.No.M-5012/ 300/ 2002-PC 2(A) and F.A.No. 01/ 89/ 180/Misc-13/AM-07/ PC-2 (A) attributable to the 1st and 2nd respondents and quash the same and further direct the 3rd respondent to permit clearance of about 6,000 MTS of Pigeon Peas (Toor Whole) under Exim Code 07136000 in terms of Sales Contract No. 704/ 2018-2019 dated 17.12.2018

WP No.3854 of 2019

Calling for records in and connected with Notification No. 22/ 2015-20 dated 21.08.2017 and Notification No. 06/ 2015-2020 dated 04.05.2018 read with Trade Notice No. 19/ 2018-19 dated 25.10.2017 read with Trade Notice No. 06/ 2018-2019 dated 11.05.2018 bearing No. F.No. M-5012 / 300/ 2002-PC 2(A) and F.No. 01/ 89/ 180/Misc-13/AM-07/ PC-2 (A) attributable to the 1st and 2nd respondents and quash the same and further direct the 3rd and 4th respondent to permit clearance of about 5,000 MTS of Black Mapte/Urad under Exim Code 0713 3100 in terms of Sales Contract No. SW/ 95/ 2018-19 dated 04.02.2019

WP No.3913 of 2019

Calling for records in and connected with Gazette Notification bearing No.S.O.6364 (E) Dated 28/12/2018 attributable to the 1st and 2nd respondents and quash the same and further direct the 4th 5th respondents to permit clearance of 15,000 MTS of Peas falling under EXIM Code 07131000 in terms of Sales Contract No.SW/102/2018 -19 dated 04/02/2019.

For Petitioner : Mr. B. Satish Sundar
in WP.No.17387 to
17391/2019
For Petitioners in:M/s.P.Siddharthan
WP.Nos.27439,29283
29290,30602,30611
30968,and 30975 of 2018
WP.Nos.662,3106,3115
3848,3853,3854 and 3913/2019

For Petitioners in
WP.Nos.89/2019 :M/s.A.Suresh
348/19,and 3806/19
For Petitioners in
WP.Nos.1247/19 :M/s.G.Ethirajulu

For Respondents in
WP.Nos.17387 to 17391/19
WP.Nos.29283/18 :M/s.Rabu Manohar, CGSC
(R1 to R3)
(R1 & R2)

For Respondents in
WP.Nos.17387 to 17391/19:M/s.Aparna Nandakumar
R4

For Respondents in:M/s.Madhanagopal Rao,CGSC
WP.No.27439/18 (all Respondents
WP.29290/18 (R1 & R2)
WP.Nos.30602 & 30611/18 (R1 & R2)
WP.Nos.30968 &30975/18 (R1 & R2)
WP.No.89,348,1247
662,3106,3115,3806,3848
3853,3854,3913/2019 (All Respondents)

For Respondents in :M/s.Rajnish Pathiyil
WP.No.29283/2018 (R3)
WP.No.29290/2018 (R3)

For Respondents in :M/s.K.S.Ramasamy, CGSC
WP.No.30602 & 30611/2018 (R3)
WP.No.30975/2018 (R3)

For Respondents in : M/s.V.Sundareswaran
WP.No.30968/2018 R3

C O M M O N O R D E R

This batch of Writ Petitions have been filed by Importers challenging the notifications No. 19/2015-2020 dated 05.08.2017, No. 22/2015-2020 dated 21.08.2017, No. 06/2015-2020 dated 25.10.2017 and 04.05.2018, Nos. 04 and 05/2015-2020 dated 25.04.2018, No. 06/ 2015-2020 dated 04.05.2018 and No. 15/2015-2020 dated 02.07.2018, No. 37/2015-2020 dated 28.09.2018 read with trade notices No.19/2018-2019 dated 25.10.2017, No. 05/2018 dated 09.05.2018, No. 10/2018 dated 16.05.2018, No. 12/2018 dated 18.05.2018 and No. 21/2018-2019 dated 06.07.2018 read with trade notices No.06/2018-2019 dated 11.05.2018 and No. 40/2018-2019 dated 31.12.2018 and Notification S.O. 6364(E) dated 28.12.2018 and further direction has been sought to permit clearance of the Pigeon Peas (Toor Whole) that have been imported.

2. Mr. J. Madanagopal Rao, Learned Central Government Standing Counsel appearing for the Respondents submits that the issue involved in these Writ Petitions are squarely covered by the order dated 04.04.2019 in W.P. Nos. 15291 to 15294 etc., batch, rejecting the claims of similarly placed persons and the Petitioners cannot take any exception to the same.

3. Learned Counsel for the Petitioners submits that though this Court has held against the Petitioner in the aforesaid order, certain other legal contentions which have been raised by them in these Writ Petitions were not argued in those cases and hence the same requires to be considered.

4. The contentions of the Learned Counsel for the Petitioners in this regard is that Section 19(3) of the Foreign Trade (Development and Regulation) Act, 1992, requires that the notification issued under the exercise of that power would have to be placed before the Parliament and the Respondents have not placed any materials before this Court showing compliance in this regard, which would invalidate the impugned notifications on that ground itself.

5. In reply to the said contention, Learned Central Government Standing Counsel relies on the following decisions of the Hon'ble Supreme Court of India:-

- (i) M/s. Atlas Cycle Industries Limited -vs- State of Haryana [(1979) 2 SCC 196];
- (ii) Quarry Owners' Association -vs- State of Bihar [(2000) 8 SCC 655];

- (iii) K.T. Plantation Private Limited -vs- State of Karnataka [(2011) 9 SCC 1]; and
- (iv) State of Rajasthan -vs- Mukesh Sharma (Judgment dated 22.04.2019 in Civil Appeal No. 3086 of 2016 etc., batch)

It has been held in those binding decisions that the requirement of placing notifications issued in exercise of statutory power before Parliament is only optional and not mandatory and the failure to place the same before the Legislature would not vitiate the notification.

6. On a careful consideration of the rival submissions, it would suffice here to refer to the decision of the Hon'ble Supreme Court of India in M/s. Atlas Cycle Industries Limited -vs- State of Haryana [(1979) 2 SCC 196], in which it has been held as follows:-

"22.In the instant case, it would be noticed that sub-section (6) of Section 3 of the Act merely provides that every order made under Section 3 by the Central Government or by any officer or authority of the Central Government shall be laid before both Houses of Parliament, as soon as may be, after it is made. It does not provide that it shall be subject to the negative or the affirmative resolution by either House of Parliament. It also does not provide that it shall be open to the Parliament to approve or disapprove the order made under Section 3 of the Act. It does not even say that it shall be subject to any modification which either House of Parliament may in its wisdom think it necessary to provide. It does not even specify the period for which the order is to be laid before both Houses of Parliament nor does it provide any penalty for non-observance of or non-compliance with the direction as to the laying of the order before both Houses of Parliament. It would also be noticed that the requirement as to the laying of the order before both Houses of Parliament is not a condition precedent but subsequent to the making of the order. In other words, there is no prohibition to the making of the orders without the approval of both Houses of Parliament. In these circumstances, we are clearly of the view that the requirement as to laying contained in sub-section (6) of Section 3 of the Act falls within the first category i.e. "simple laying" and is directory not mandatory." In conclusion, it was held that the Legislature never intended that non-compliance with the requirement of laying as envisaged by sub-section (6) of Section 3 of the Act should

render the order void."

In the light of the aforesaid authoritative pronouncement of the Hon'ble Supreme Court of India, which has been reiterated by subsequent decisions, the contention raised by the Learned Counsel for the Petitioners does not merit any acceptance.

7. Accordingly, following the earlier order dated 04.04.2019 in W.P. Nos. 15291 to 15294 etc., batch, passed by this Court, these Writ Petitions stand dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/
Sub Asst. Registrar

vjt
To

1. The Director General of Foreign Trade,
Ministry of Commerce & Industries,
Department of Commerce,
Udyog Bhavan, H Wing, Gate No. 2,
Maulana Azad Road,
New Delhi - 110 011.
2. The Joint Director General of Foreign Trade,
Ministry of Commerce & Industries,
Department of Commerce,
Udyog Bhavan, H Wing, Gate No. 2,
Maulana Azad Road,
New Delhi - 110 011.
3. The Additional Director General of Foreign Trade,
IV and V Floor,
Shastri Bhavan Annex Building,
26, Haddows Road,
Chennai - 600 006.
4. The Commissioner of Customs,
Chennai II Commissionerate,
Custom House,
60, Rajaji Salai,
Chennai - 600 001.

5.The Commissioner of Customs
chennai II Commissionerate
Custom House, New Harbour estate,
Tuticorin 628 004

6.The Joint Secretary to the Government
The Union of India,
Department of Commerce,
Ministry of Commerce and Industries
Udyog Bhavan
new Delhi-110 007

+1 cc to M/s.V.Sundareswaran Advocate sr75191
+4 cc to M/s.P.Siddharthan Advocate sr74267,72466,74268,74265
+2 cc to M/s.K.S.Ramasamy Advocate sr74297,74296
+2 ccs to M/s.B.Rabu Manohar Advocate sr73962,73963
+1 cc to M/s.A.P.Srinivas Senior Standing Counsel
sr74715

W.P. Nos. 17387 to 17391 of 2018 etc., batch

bp(co)
aa27/11/2019