IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19-08-2019

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.NO.24133 OF 2019
AND
W.M.P.NO.23927 OF 2019

M/s.Paragon Chemicals,
Represented by its Partner Mr.Ajitraj Kankriya,
No.65/61, Thiruymangamal Road,
Villivakkam,
Chennai-600 049.
.. Petitioner

vs.

1. The Commissioner of Customs,
   Chennai II Commissionerate,
   Customs House,
   Rajaji Salai,
   Chennai-600 001.

2. The Deputy Commissioner,
   Group 1A,
   Customs House,
   Rajaji Salai,
   Chennai-600 001.

3. The Deputy Director (DRI),
   Chennai Zone, GN. Chetty Road,
   T.Nagar,
   Chennai-600 017.

.. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, thereby calling for the entire records pertaining to the order in F.No. DRI/CZU/VIII/26/163/2019 dated 02.08.2019 passed by the third respondent and quash the same thereby directing respondents to draw samples of "Low Aromatic White Spirit Covering" under the Bill of Entry Nos.4203294, 4203645, 4203666, 4203772, 4203287, 4202464, 4201994 and 4201997 all dated 24.07.2019 within a time frame line of the report obtained from the authorized lab for the provisional release goods under Section 110A of Customs Act as claimed by the petitioner in his representation dated 04.08.2019 and 07.08.2019.

For Petitioner	:	Mr.K.Mohanamurali
For Respondents-1&2	:	Mr.K.Magesh, Junior Standing Counsel for Customs and GST.
For Respondent-3	:	Mr.V.Sundareswaran, Senior Panel Counsel (GST).

O R D E R

Mr.K.Mohanamurali, learned counsel on record for writ petitioner, Mr.K.Magesh, learned Junior Standing Counsel for Customs and GST, who has accepted notice on behalf of respondents 1 and 2 and Mr.V.Sundareswaran, learned Senior Panel Counsel (GST), who has accepted notice on behalf of third respondent, are before this Court.

2. With consent of all the aforesaid learned counsel, main writ petition is taken up.

3. Notwithstanding several averments made, besides grounds raised and contentions canvassed in the affidavit filed in support of instant writ petition, in the hearing today, learned counsel for writ petitioner abridged the prayer and submitted that it will suffice if this Court considers issuing a Writ of Mandamus to the first respondent to dispose of 'writ petitioner's representation dated 07.08.2019' (hereinafter 'said representation' for brevity, clarity and convenience).

4. Said representation has been annexed as part of the typed set of papers forming part of the case-file placed before this Court today and it is at page No.104 of the typed set of papers.

5. Copies of typed set of papers have been furnished to the aforesaid two Revenue Counsel.

6. A perusal of said representation reveals that there are two addressees and addressees 1 and 2 are respondents 3 and 2 in instant writ petition respectively. In other words, respondent No.3 herein is addressee No.1 and respondent No.2 herein is addressee No.2 in said representation.

7. Learned Revenue Counsel for respondent No.3 submits

that said representation pertains to provisional release inter alia under Section 110-A of Customs Act, 1962 and therefore a decision on the same has to be taken only by respondents 1 and 2.

8. Learned Revenue Counsel for respondents 1 and 2 submits that the value of consignment in instant case is over Rs.2 crores and therefore request in the said representation can be considered and a decision can be taken only by respondent No.1 i.e., Commissioner of Customs.

9. From the narrative thus far, it will be clear that said representation has been sent to respondents 2 and 3.

10. It is submitted that consignment, which forms subject matter of instant writ petition can deteriorate and therefore it would be desirable to have the said representation disposed of at the earliest.

11. Owing to all that have been set out supra, this Court is left with the view that the abridged prayer, now before this Court, is innocuous and therefore, following order is passed:

(a) Revenue Counsel for respondents 1 and 2 undertakes to ensure that respondent No.2 forwards said representation to respondent No.1 forthwith.

(b) Respondent No.1 shall consider and pass orders/dispose of the said representation i.e., representation dated 07.08.2019 on its own merits and in accordance with law as expeditiously as possible and in any event, within a fortnight from today.

(c) Order passed in the aforesaid manner by the first respondent (disposing of said representation dated 07.08.2019) shall be communicated to the writ petitioner under Due Acknowledgement, within three working days from the date of such disposal/order.

(d) Though obvious, owing to the prayer being abridged, it is made clear that all contentions made in the instant writ petition are left open and no opinion or view is being expressed by this Court on the merits of the matter.

12. Writ petition is disposed of with the above directions. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Commissioner of Customs,
   Chennai II Commissionerate,
   Customs House,
   Rajaji Salai,
   Chennai-600 001.

2. The Deputy Commissioner,
   Group 1A,
   Customs House,
   Rajaji Salai,
   Chennai-600 001.

3. The Deputy Director (DRI),
   Chennai Zone, GN. Chetty Road,
   T.Nagar,
   Chennai-600 017.

+1cc to Mr.K.Mohanamurali, Advocate, S.R.No.70284
+1cc to Mr.K.Magesh, Advocate, S.R.No.70303
+1cc to Mr.V.Sundareswaran, Advocate, S.R.No.70264

W.P.No.24133 of 2019

VSNII(CO)
CS/24/09/2019