



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE **M.GOVINDARAJ**

**W.P. (MD)No.21220 of 2019**  
**and**  
**W.M.P. (MD)No.17872 of 2019**

M/s.Sunrise Chemicals Pvt. Ltd.,  
Rep. by its Director  
Mr.Deepak Rungta,  
Regd. Office: 21, Abanindra Nath  
Thakur Sarani (Formerly Known as Camac Street),  
Bells House, 8th Floor,  
Kolkata - 700 016. : Petitioner

Vs.

- 1.The Commissioner of Customs,  
Custom House, New Harbour Estate,  
Tuticorin - 628 004.
- 2.The Assistant Commissioner of Customs (Imports),  
Custom House, New Harbour Estate,  
Tuticorin - 628 004.
- 3.The Deputy Director (E),  
Government of India,  
Ministry of Agriculture and Farmers Welfare,  
Directorate of Plant Protection, Quarantine & Storage,  
Plant Quarantine Station, Tuticorin. : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the third respondent connected with Order No.IR21Tut2019006826, dated 22.07.2019 on the file of the third respondent and quash the same and consequently, direct the third respondent to re-inspect the samples of the subject consignment covered under Bill of Entry No.3599183, dated 10.06.2019 and further, direct the second and third respondents herein to release the above subject consignment on the re-inspection opinion.

|                     |                     |
|---------------------|---------------------|
| For Petitioner      | : Mr.A.K.Jayaraj    |
| For Respondents 1&2 | : Mr.R.Aravindan    |
| For Respondent No.3 | : Mr.K.Sankararaman |



ORDER

Aggrieved over the deportation/destruction order passed by the third respondent in No.IR21Tut2019006826, dated 22.07.2019, the petitioner is before this Court.

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2. The petitioner is an importer of cashew nuts (Raw). For non-compliance of phytosanitary point of view, the import was rejected.

3. The remarks of the Signing Authority reads as under:  
**"Deportation order issued as the competent authority rejected the request of the importer."**

4. The request of the importer, according to the petitioner, was, the relaxation for waiving the penalty. In fact, the affidavit filed by the petitioner clearly shows that the petitioner has not made any request for relaxation. But the impugned order came to be passed on wrong basis.

5. The learned counsel appearing for the petitioner would vehemently contend that at no point of time, the petitioner has asked for relaxation and since the product is considered for relaxation, the respondents, on their own, presumed that the importer has asked for relaxation. Hence, the impugned order is liable to be set aside.

6. On behalf of the first and second respondents, Mr.R.Aravindan, learned counsel entered appearance and on behalf of the third respondent, Mr.K.Sankararaman, learned counsel, entered appearance and consented for taking up the Writ Petition for final disposal.

7. From the materials available before this Court, the import was rejected on the ground that the relaxation cannot be granted on phytosanitary point of view. Insofar as the nature of non-compliance is concerned, the respondents have not rejected the product on any of the other remarks other than the phytosanitary point of view. Hence, when the importer himself has declared that he does not want relaxation, the authority should re-consider the issue afresh.

8. In that view of the matter, the impugned order dated 22.07.2019 is set aside and a direction is given to the third respondent to take a sample, within a week from the date of receipt of a copy of this order and re-test the same and take appropriate steps on the basis of the report with regard to the imported goods, namely, cashew nuts (Raw) and pass appropriate orders thereafter.



9. The Writ Petition stands allowed as indicated above. No costs. closed.

Sd/-

Assistant Registrar (CS-II)

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// True Copy //

Sub Assistant Registrar

TO

1.The Commissioner of Customs,  
Custom House, New Harbour Estate,  
Tuticorin - 628 004.

2.The Assistant Commissioner of Customs (Imports),  
Custom House, New Harbour Estate,  
Tuticorin - 628 004.

3.The Deputy Director (E),  
Government of India,  
Ministry of Agriculture and Farmers Welfare,  
Directorate of Plant Protection, Quarantine & Storage,  
Plant Quarantine Station, Tuticorin.

+1 CC to M/s.K.SANKARA RAMAN, Advocate ( SR-91253[F] dated 04/10/2019 )

+1 CC to M/s.R.ARAVINDAN, Advocate ( SR-91248[F] dated 04/10/2019 )

+1 CC to M/s.A.K.JAYARAJ, Advocate ( SR-91528[F] dated 04/10/2019 )

Order made in  
**W.P. (MD)No.21220 of 2019**  
**Dated:- 03.10.2019**

LS

MS/04.10.2019/3P.7C