<u>IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH</u>.

<u>CWP No.35886 of 2019(O&M)</u>

<u>Date of Decision:-13.12.2019</u>

<u>M/s S.S. Overseas</u>.

.....<u>Petitioner</u>.

Vs.

<u>Union of India and others</u>.

......<u>Respondents</u>.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH

Present : Mr. Saurabh Kapoor, Advocate for the petitioner.

Mr. Sourabh Goel, Advocate for respondents No.1 to 3-Customs Department.

Mr. Paul S. Saini, Advocate for respondent No.4-Warehousing Corporation.

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<u>JASWANT SINGH, J. (Oral)</u>

The petitioner-a partnership firm is engaged in the import of "Dry Dates" from Pakistan for sale in the domestic market. It's one of such consignments of goods from Pakistan had entered the territory of India and the bill of entry with the prescribed rate of duty was electronically generated on 16.02.2019 before impugned notification enhancing the duty @ 200% was issued in late evening on the same date.

The prayer in this petition is for release of the imported goods upon payment of the rate of duty assigned in the bill of entry instead of the subsequently enhanced duty @ 200% in view of the judgment passed by this Court in CWP-11887-2019; decided on 26.08.2019; **M/s Rasrasna Food Pvt. Ltd.** v. **The Union of India and others.**

It is not in dispute that the petitioner is entitled to the relief in terms of the judgment of this Court in CWP-11887-2019; decided on 26.08.2019; **M/s Rasrasna Food Pvt. Ltd.** v. **The Union of India and others** as rightly directed by the CESTAT-Tribunal in the instant case vide order dated 6.9.2019, however, the goods inspite of directions to be released within 7 days, have yet not been released.

Upon notice, learned counsel for respondents No.1 to 3 does not dispute the similarity of facts and the relief claimed, however, submits that the goods have not been released as the department is in the process of filing of appeal against the order passed by the Tribunal on 06.09.2019. He further submits that the applicants have invoked the writ jurisdiction of this Court after the expiry of relevant period of filing of appeal etc qua the goods detained.

After hearing learned counsel for the parties, we are not inclined to accept the hyper-technical objections raised on behalf of respondents. In the facts of the case, we find that the petitioner would be entitled to same relief as in the case of M/s Rasrasna Food Pvt. Ltd. (supra) as also in view of the interpretation of the provision of Section 15 of the Customs Act, 1962.

Accordingly, in view of the above, we allow the writ petition in terms of the judgment passed by this Court in CWP-11887-2019; decided on 26.08.2019; **M/s Rasrasna Food Pvt. Ltd.** v. **The Union of India and others.** We further direct the Respondents to forthwith release the goods as directed by the Tribunal. It is further ordered that the Custom department would immediately issue detention memo so as to facilitate early release of the goods.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

13.12.2019
rajeev/Vinay

Whether speaking/reasoned	***Yes/No***
Whether reportable	***Yes/No***