

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.443 of 2020 & 31422 & 31426 of 2019 and
WMP.Nos.31591 & 31594 of 2019

WP.No.443 of 2020

MSC Agency (India) Private Limited
1st Floor, KGN Towers,
No.62, Ethiraj Salai,
Egmore, Chennai 600 008.
Represented by it's Authorised Signatory,
A.Umaibalan Petitioner
.Vs.

1. The Commissioner of Customs (Imports),
Office of the Commissioner of Customs (Sea Port),
Customs House, No.66, Rajaji Salai,
Chennai 600 001.
2. 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

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying to Writ of Mandamus to direct the
1st Respondent for giving directions to the relevant container
freight station i.e. 2nd Respondent to destuff the cargo and
release the 100 containers mentioned in Schedule A without any
further delay.

WP.Nos.31422 & 31426 of 2019

M/s.Ningxia TLH Group Co., Ltd.,
Represented by its Commercial Manager Mr.S.Prathap Lingam,
Aged 38 years,
No.22, Beijing Road,
Yinchuan, Ningxia,
China.Petitioner in both Wps

.Vs.

1. The Chief Commissioner of Customs,
Custom House,
No.60, Rajaji Salai,
Chennai - 600 001.
2. The Assistant Commissioner of Customs (Uncleared Cargo),
Customs House,
No.66, Rajaji Salai,
Chennai 600 001.
3. M/s.MSTC Limited,
Ispat Bhavan, 3rd Floor,
No.5, Kodambakkam High Road,
Chennai - 600 034.
4. M/s.Headwin Exim Private Limited,
No.116/2, 1st Floor, 11th Cross Street,
Malleshwaram, Bengaluru-560 003,
Karnataka.4th Respondent in
WP.No.31422/2019
4. M/s.M.K.Carbon,
No.506, 8th Main, 10th Cross,
Rajmahal Vilas Extension, Sadashiv Nagar,
Bengaluru-560 0804th Respondent in
WP.No.31426/2019
5. M/s.Ujwal International
(R4 & R5 deleted vide order dated 2.12.2019 made in
WP.Nos.31422 & 31426 of 2019)
6. M/s.Calyx Container Terminal Private Limited,
No.28, GNT Road, (NH 5),
Puzhal Junction,
Kathirvedu Village, (Near Erattai Eri),
Chennai 600 066. R1 to R6 in both WPs
7. Hyundai Merchant Marine India Pvt. Ltd.,
Ega Trade Centre, 3rd Floor, Door No.318
(Old No.809) Poonamalee High Road, Kilpauk,
Chennai 600 010.
Represented by its Authorised Signatory,
T.Chandrabhanu .. R7 in WP.31422/2019 & R7
in WP.31426/2019
8. MSC Agency (India) Private Limited,
1st Floor, KGN Towers, No.62 Ethiraj Salai,
Egmore Chennai 600 008,

Represented by its Authorised Signatory,
A.Umaibalan

... R8 in WP.31422/19 & R8
in WP 31426 of 2019

(R7 & R8 impleaded vide order dated 28.7.2020 made in
WMP.Nos.5896 & 6216 of 2020 in
WP.No.31422 & 31426/2019)

Prayer in WP.31422/2019: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Mandamus to direct the first and second respondents keep the cargo namely electrically Calcined Anthracite Coal and Gas Calcined Anthracite Coal supplied by the petitioner in 125 containers and lying with the sixth respondent in safe custody pending their quantification and disposal by the petitioner herein.

Prayer in WP.31426/2019: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Mandamus to direct the first and second respondents keep the cargo namely electrically Calcined Anthracite Coal and Gas Calcined Anthracite Coal supplied by the petitioner in 65 containers and lying with the sixth respondent in safe custody pending their quantification and disposal by the petitioner herein.

(WP.No.443 of 2020)

For Petitioner : Mr.P.Giridharan
For Respondents: Mr.K.S.Ramasamy, (for R1)
Junior Panel Counsel
Mr.A.K.Jayaraj (for R2)

(WP.Nos.31422 & 31426 of 2019)

For Petitioner : Mr.S.Murugappan
For Respondents: Mr.Prabhu Mukund Arunkumar (for R1 &R2)
Mr.A.K.Jayaraj (for R6)
Mr.P.Giridharan (for R7)
Mrs.Deepika Murali (for R8)
No Appearance (for R3)
R4 & R5 - Given up

COMMON ORDER

Learned counsel for the petitioner has filed a memo dated 05.10.2020 seeking permission to withdraw W.P.Nos.31422 & 31426 of 2019. The memo is placed on file and acceding to the request of the petitioner for withdrawal, W.P.Nos.31422 & 31426 of 2019 are dismissed as withdrawn, simplicitor. No costs. Connected miscellaneous petitions are closed.

2. As far as W.P.No.443 of 2020 is concerned, a direction is sought directing the Commissioner of Customs/R1 to destuff cargo and release the containers set out in schedule to the affidavit thereto. On 21.08.2020, this Court had directed the quantification of the materials lying with the carriers and sought a report that has been filed by the Customs Department on 30.09.2020.

3. With the dismissal of W.P.Nos.31422 and 31426 of 2019, the order of status quo granted on 18.11.2019 stands vacated. The Customs Department is at liberty to conduct an auction of the materials lying at the container terminal, in accordance with law. W.P.No.443 of 2020 is disposed in the aforesaid terms. No costs.

Sd/-

Assistant Registrar(L.A)

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner of Customs (Imports),
Office of the Commissioner of Customs (Sea Port),
Customs House, No.66, Rajaji Salai,
Chennai 600 001.
2. The Chief Commissioner of Customs,
Custom House, No.60, Rajaji Salai,
Chennai - 600 001.
3. The Assistant Commissioner of Customs (Uncleared Cargo),
Customs House, No.60, Rajaji Salai,
Chennai 600 001.

+1cc to M/s.Deepika Murali, Advocate, Sr.No.33198

+2cc to M/s.Hema Muralikrishnan, Advocate, Sr.No.33323 & 33322

+3cc to Mr.A.K.Jayaraj, Advocate, Sr.No.33573,33574 & 33583

W.P. Nos.443 of 2020 & 31422 & 31426 of 2019 and

WMP.Nos.31591 & 31594 of 2019

rr ii (03/12/2020)