



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Tuesday, the Eighteenth day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

SUB A(MD) No.18 of 2020
IN
CONT P(MD) No.65 of 2020

M/S.HIGH RANGE SPICES
REP.BY ITS PROPRIETOR
MR.MOHAMMED SHAHIRSHA.

... APPELLANT/
CONTEMPT PETITIONER/ WRIT PETITIONER

Vs

1 D.ANIL
COMMISSIONER OF CUSTOMS,
CUSTOM HOUSE, NEW HARBOUR ESTATE,
TURICORIN-628 004.

2 PAUL PETER
ASSISTANT COMMISSIONER OF CUSTOMS
(IMPORT-ASSESSMENT), CUSTOM HOUSE,
NEW HARBOUR ESTATE,
TUTICORIN-628 004.

... RESPONDENTS/ CONTEMNORS/
RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to direct the respondents to forthwith Assess the Bill of Entry and Allow release of the goods viz., 280 Bags ie., 14,000 Kgs., of "Black Pepper - Matured Berries" imported vide Bill of Entry No.9003969, dated 26.11.2018.

Prayer in CONT P(MD). 65/ 2020 :

Pleased to punish the respondents under section 11 of the Contempt of court Act for having willfully and deliberately disobeying the order of this Honourable Court passed in WP(MD)No.2264 of 2019, dated 01.02.2019, confirmed in WA(MD)No.478 of 2019, dated 20.08.2019.

Prayer in WP(MD)No.2264 of 2019: Writ Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents herein to assess the Bill of Entry and allow release of the goods viz., 280 Bags I.e., 14,000 Kgs., of



"Black Pepper - Matured Berries" imported vide Bill of Entry No.9003969, dated 26.11.2018.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.A.K.JAYARAJ, Advocate for the petitioner and of Mr.ARAVINDHAN, Advocate on behalf of the Respondents, the court made the following order:-

The petitioner's writ petition for directing the authorities to assess the bill of entry and allow the release of 280 bags of (14,000 Kgs) of Black Pepper - matured berries, was allowed by me on 01.02.2019. The department filed W.A.(MD)No.478 of 2019 and the same was dismissed on 20.08.2019. Even thereafter, the respondents did not comply with the order passed by this Court. They wanted to file S.L.P. before the Hon'ble Supreme Court. In the meanwhile, this contempt petition came to be filed.

2.I admitted the contempt petition and also issued statutory notice. The petitioner had taken out this Sub Application (MD)No.18 of 2020 for directing the respondents to forthwith assess the bill of entry and allow the relief of goods. Notice was ordered in the Sub Application.

3.When it was taken up for consideration today(18.02.2020), the learned Standing Counsel for the respondent produced a copy of the communication bearing C.No.VIII/48/29/2018-Import Assessment (Part II) dated 17.02.2020, stating that based on the order passed by the Hon'ble Division Bench, the bill of entry was assessed to duty and it is pending for payment of duty from the petitioner's side.

4.The learned counsel for the petitioner would point out that the Hon'ble Division Bench had disposed of the Writ Appeal way back on 20.08.2019 and that therefore, the respondents were not justified in retaining the goods and yet claiming demurrage and detention charges.

5.I find the said submission to be reasonable. The respondents cannot take advantage of their own wrong. The learned counsel for the petitioner would refer to an order dated 06.08.2019 made in W.P.No.29847 of 2018 where in similar circumstances, the authorities were directed to ensure that the consignment was given delivery to the writ petitioner without insisting on demurrage and detention charges.

6.The petitioner is permitted to submit a representation addressed to the respondents. The respondents are directed to pass orders on the said representation forthwith in the light of the order dated 06.08.2019 made in W.P.No.29847 of 2018.



7.This Sub Application is allowed on these terms.

sd/-
18/02/2020

/ TRUE COPY /

WEB COPY

/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

+1 CC to M/s.R.ARAVINDAN, Advocate (SR-3425[I] dated 18/02/2020)
+1 CC to M/s.A.K.JEYARAJ, Advocate (SR-3404[I] dated 18/02/2020)

ORDER
IN
SUB A(MD) No.18 of 2020
IN
CONT P(MD) No.65 of 2020
Date :18/02/2020

MS/PN/SAR-1/19.02.2020/3P.3C