



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.10.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.12825 of 2020

and

W.M.P. (MD)No.10883 of 2020

WEB COPY

M/s.Britto Timbers Private Limited,
No.1-30, Azhagiamandapam,
Mulagumoodu (PO) - 629 167,
Kanyakumari District,
represented by its Manager,
Agin Paul Joseph

... Petitioner

Vs.

1.The Joint Secretary (Plant Protection),
Ministry of Agriculture & Farmers Welfare,
Krishi Bhavan, New Delhi.

2.The Deputy Director (E)
Ministry of Agriculture & Farmers Welfare,
Directorate of Plant Protection and
Quarantine and Storage,
4/90, CGE Colony 4th Street, Tuticorin - 3.

3.The Superintendent of Customs,
Customs House, Tuticorin.

4.The Manager,
M/s.Hari CFS, 4/29E, Madurai Bye Pass Road,
Tuticorin - 628 006.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the first respondent herein to pass appropriate orders in the appeal dated 19.02.2019 preferred by the petitioner herein against the order No.01/2019, dated 05.02.2019 for deportation/destruction of the 28 pieces Billinga (Nauclea Diderrich) Wooden logs (65.585 CBM without PSC) weighing 69422 Kgs imported by the petitioner under Bill of Lading SAFM No.579495864, dated 09.12.2018 and BE No.9400084, dated 24.12.2018 and lying at the Container Freight Station belonging to the fourth respondent at Tuticorin by exercise of the power conferred on him under Order 14 of the Plant Quarantine Regulations (Import into India) Order, 2003, issued under the Destruction Insects and Pests Act, 1914 as also considering their subsequent representations dated 23.02.2019 and 20.02.2020 within a reasonable time.

For Petitioner : Mr.N.Viswanathan

For R1 : Mr.P.Subbiah

For R3 : Mr.B.Vijayakarthiskeyan



O R D E R

M/s.Britto Timbers Private Limited, the petitioner herein had imported the petition mentioned goods. The petitioner was visited with an order to depart or destroy. The goods have been kept under the custody of the fourth respondent herein. The petitioner applied to the first respondent seeking relaxation under Order 14 of Plant Quarantine (Regulation of Import into India) Order, 2003. The petitioner seeks disposal of the petition for relaxation.

2. When the matter was taken up for hearing, the learned Counsel appearing for the first respondent submitted that the petitioner's request had already been rejected. The learned Counsel also produced a copy of the e.mail communication also. He also stated that the fourth respondent has been served with a copy of the said communication.

3.I went through the contents of the communication that is e.mail dated 04.04.2019 addressed to the Officer in-charge, PQS, Tuticorin. It is addressed by the Deputy Director(E). The communication reads that after relaxation procedure the Department of Agriculture and Farmers' Welfare had already rejected all three relaxation cases. It is stated that as per the directions given by the competent authority, decision may be taken as per the provisions mentioned in Plant Quarantine (Regulation of Import into India) Order, 2003.

4.I am afraid that there is no proper or formal disposal of relaxation petition under Order 14. In the first instance, it is not even addressed to the applicant. When the applicant prays for certain relaxations under statutory provision, the order dismissing the said petition must be addressed to the applicant.

5.Therefore, I am not in a position to accept the stand of the learned Standing Counsel that the petitioner's petition has been disposed. I, therefore, direct the first respondent to pass appropriate orders on the petitioner's request. Though the petitioner had styled his petition as an appeal, as admitted by the petitioner's counsel before me, the petition filed by him is only under Order 14 meant for relaxation cases and not under Order 12 meant for appeal.

6.The first respondent is directed to dispose of the matter within a period of seven days form the date of receipt of a copy of this order.



7. This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

das

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Joint Secretary (Plant Protection),
Ministry of Agriculture & Farmers Welfare,
Krishi Bhavan, New Delhi.
- 2.The Deputy Director (E)
Ministry of Agriculture & Farmers Welfare,
Directorate of Plant Protection and
Quarantine and Storage,
4/90, CGE Colony 4th Street,
Tuticorin - 3.
- 3.The Superintendent of Customs,
Customs House, Tuticorin.
- 4.The Manager,
M/s.Hari CFS,
4/29E, Madurai Bye Pass Road,
Tuticorin - 628 006.

+1 CC to M/s.B. VIJAY KARTHIKEYAN, Advocate (SR-18866[F] dated 05/10/2020)

+1 CC to M/s.N. VISWANATHAN, Advocate (SR-18867[F] dated 05/10/2020)

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NR (16/10/2020) 3P : 7C

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