



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2020

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P(MD) .No.19319 of 2014

M/s.Royal Marketing,
Rep. by its Proprietor, Mr.T.Balaji,
S/o.S.Thangamani,
Door No.1/242, Kamaraj Nagar,
S.No.321/1B1, 301/2A, Meelavittan (Melur),
Tuticorin.

.. Petitioner

Vs.

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

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

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, directing the 2nd respondent to permit the clearance of light melting scrap and consequently permit the petitioner to dispose the plastic cans, PET bottles to the plastic recycling Industrial Units after segregating the same from the light melting scrap imported, vide bill of entry No.6208313 dated 23.07.2014, within the time frame stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.B.Vijay Karthikeyan
Senior Standing Counsel

ORDER

(This writ petition heard through video conference)

This writ petition has been filed for a Mandamus seeking for a direction to the second respondent to permit the clearance of light melting scrap and consequently permit the petitioner to dispose the plastic cans, PET bottles to the plastic recycling Industrial Units after segregating the same from the light melting



scrap imported, vide bill of entry No.6208313 dated 23.07.2014, within the time frame stipulated by this Court.

2.Heard Mr.T.Lajapathi Roy, learned counsel for the petitioner, Mr.B.Vijay Karthikeyan, learned Senior Standing Counsel for the respondents.

3.It is the case of the petitioner that they imported five containers of light melting scrap (LMS) from the overseas supplier at Reunion (France). The five containers were imported under the bill of entry No.6208313, dated 23.07.2014. It is the case of the petitioner that the officials of the Pollution Control Board examining the cargo on 07.08.2014 and the District Environment Engineer, vide his report dated 07.08.2014, opined that the cargo consisted of plastic cans and PET bottles apart from light melting scrap. Based on the report, the respondents came to a conclusion that the consignment consisted of waste apart from the declared light melting scrap and accordingly, they seized the imported goods vide seizure mahazar dated 28.08.2014.

4.It is the case of the petitioner that the exporters were unintentionally mixed the PET bottles along with the light melting scrap and therefore, there is no deliberate violation of the law by the petitioner. The petitioner has given a representation on 25.08.2014 to the second respondent requesting them to segregate the light melting scrap from the PET bottles. One more representation was also given on 15.09.2014. It is the case of the petitioner that till date the said representations have not been considered by the respondents. In such circumstances, this writ petition has been filed seeking for a positive direction to dispose of the PET bottles in India itself, instead of reexportation the same back to the country of origin.

5.It is the contention of the learned Standing counsel for the respondents that without any legal right, the present writ petition has been filed. Further, it is contended that the PET bottles if allowed to be retained in India, it will cause pollution. Hence, the respondents cannot grant permission for the petitioner to dispose of the PET bottles which is a banned imported item to be disposed of in India.

6.The relief sought for in this writ petition cannot be granted by this Court as he seeks for a positive direction. It is for the respondent to consider the request of the petitioner to segregate the PET bottles from light melting scrap, which was imported by the petitioner under bill of entry No.6208313 dated 23.07.2014. No prejudice will be caused to the respondents, if the petitioner's representations dated 25.08.2014 & 15.09.2014 is considered by them on merits and in accordance with law.



7.For the foregoing reasons, this Court directs the second respondent to consider the petitioner's representations dated 25.08.2014 & 15.09.2014 seeking permission to segregate the PET bottles from the light melting scrap and also seeking permission to dispose of the PET bottles in India itself instead of re-exporting the same to the country of origin and pass final orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

8.With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

TM

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.

+1 CC to Mr.B.VIJAYA KARTHIKEYAN, Advocate
(SR-23457[F] dated 01/12/2020)

+1 CC to Mr.T. LAJAPATHI ROY, Advocate (SR-
23588[F] dated 02/12/2020)

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01.12.2020**

SJ(CO)

KM (21.12.2020) 3P 3C