



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.Nos.21655 & 21658 of 2021

M/s.Kawarlal & Co.,
No.27, Raghunayakulu Street,
Chennai - 600 003,
by its Proprietor K.Ramlal Jain.

... Petitioner in both WPs

Versus

The Drugs Inspector,
O/o. The Deputy Drugs Controller (I)
CDSCO, South Zone, Ministry of Health & Family Welfare,
Govt. of India, 2nd Floor, Shastri Bhavan Annexe,
No.26, Haddows Road,
Chennai - 600 006.

... Respondent in both WPs

Common Prayer: Petitions filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondent herein to consider the petitioner's representations dated 28.08.2021, to release the goods, viz., Folic Acid and D Calcium Pantothenate, upon satisfaction and based on the test report, declaring the goods to be "Quality in Nature, while also further taking into consideration the shelf life of the impugned goods and the further possibility of the deterioration of the goods, owing to its non-usage and further reduction in value and the marketability of the goods.

For Petitioner : Mr.S.Baskaran in both Wps

For Respondent : Mr.K.S.Jeyaganesan,
Senior Panel Counsel

COMMON ORDER

These writ petitions are filed for issuance of Writ of Mandamus seeking to direct the respondent herein to consider the petitioner's respective representations dated 28.08.2021, to release the goods, viz., Folic Acid and D Calcium Pantothenate,



upon satisfaction and based on the test report, declaring the goods to be "Quality in Nature and also taking into consideration the shelf life of the goods and the further possibility of the deterioration of the goods, owing to its non-usage, further reduction in value and the marketability of the goods.

2. The petitioner is a proprietorship concern engaged in the business of importing and supplying of various raw materials required for the manufacture of chemicals, drugs, pharmaceuticals, food, nutraceutical, beverage products. They have also obtained license under the Drugs and Cosmetics Act in Form 2B and Form 21B. During the course of their business, they imported consignments of Folic Acid and D Calcium Pantothenate (not for medicinal use) vide Bill of entry No. 9645124 dated 12.03.2019 and Bill of entry No. 7846165 dated 30.08.2018 respectively from an overseas supplier namely M/s. Jingjing Pharmaceuticals Co. Ltd., China, for a valid consideration. When the goods reached Chennai Seaport Customs, the respondent, upon inspection issued Form 15 dated 25.04.2019 under the Drugs and Cosmetics Act restraining the petitioner from in any way dealing with the aforesaid goods on the ground that the petitioner has contravened the provisions under the Drugs and Cosmetics Act. Further, the samples from the goods were sent to the accredited laboratory and it was found that they are good quality in nature, however, the copy of the said reports were not provided to the petitioner concern. The petitioner therefore sent a detailed representations on 22.11.2020 followed by reminders dated 17.02.2021 and 28.08.2021 for releasing the goods stating that the goods detained by the respondent are having specified period of shelf life and the same would lead to deterioration of the goods, reduction in value of goods and the marketability of the goods if further detention is made absolute. The said representations are pending on the file of the respondent without any consideration till date. Aggrieved by the inaction of the respondent, the petitioner has come up with these writ petitions.

3. The learned counsel for the petitioner in both the writ petitions submitted that the petitioner would be satisfied, if their representation dated 28.08.2021 to release the goods namely Folic Acid and D Calcium Pantothenate is directed to be considered by the respondent, in the light of the report submitted by the accredited laboratory.

4. On the other hand, the learned Senior Panel Counsel appearing for the respondent submitted that already Criminal



Prosecution was launched against the petitioner in CC.No.194 & 196 of 2021 before the learned Judicial Chief Magistrate at Thiruvallur. However, the learned counsel fairly submitted that the petitioner's representation would be considered on merits and as per law and also in the light of the laboratory report within a time framed to be stipulated by this Court.

5. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this court, without going into the merits of the case, directs the respondent to consider the petitioner's representations dated 28.08.2021 for release of the goods and pass appropriate orders, on merits and in accordance with law, after providing an opportunity of hearing to the petitioner, in the light of the report submitted by the accredited laboratory, within a period of four weeks from the date of receipt of a copy of this order.

6. With the above direction, these writ petitions are disposed of. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

To

The Drugs Inspector,
O/o. The Deputy Drugs Controller (I)
CDSCO, South Zone, Ministry of Health & Family Welfare,
Govt. of India, 2nd Floor, Shastri Bhavan Annexe,
No.26, Haddows Road, Chennai - 600 006.

+2cc to Mr.S.Baskaran, Advocate Sr.57035

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pm[co]
srg 30/11/2021