



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Thursday, the Twenty Seventh day of May Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

WMP (MD) No.7249 of 2021
in
W.P. (MD) No.9516 of 2021

AL QAHIR INTERNATIONAL,
REP BY ITS MANAGING PARTNER,
13/489 A, KUMARA NELLUR,
THRISSUR DISTRICT,
KERALA.

... PETITIONER/ PETITIONER

Vs

1 THE TUTICORIN CUSTOMS HOUSE
REP BY ITS SUPERINTENDENT,
TUTICORIN PORT.

2 THE DEPUTY DIRECTOR
DIRECTORATE OF REVENUE INTELLIGENCE,
TUTICORIN.

... RESPONDENTS/ RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to grant an Ad Interim Direction directing the respondents to provisionally release the goods imported by the petitioner vide Bill of Entry Nos.3655257 dated 21/04/2021, 3649935 dated 21/04/2021, 3649146 dated 21/04/2021, 3718109 dated 26/04/2021, 3746469 dated 28/04/2021, 3656537 dated 21/04/2021, 3655260 dated 21/04/2021 and 3655555 dated 21/04/2021 , pending disposal of the above Writ Petition.

Prayer in WP(MD) . 9516/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of mandamus directing the respondents to release the petitioner's consignment / goods imported vide Bill of Entry Nos.3655257 dated 21/04/2021, 3649935 dated 21/04/2021, 3649146 dated 21/04/2021, 3718109 dated 26/04/2021, 3746469 dated 28/04/2021, 3656537 dated 21/04/2021, 3655260 dated 21/04/2021 and 3655555 dated 21/04/2021 within the time that may be stipulated by this Hon'ble Court.



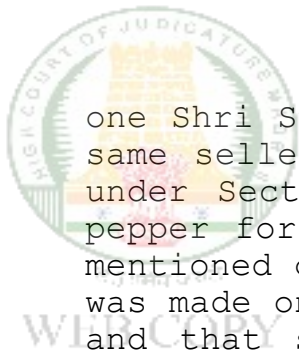
ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.AJMAL KHAN, Senior Counsel for M/S.AJMAL ASSOCIATES for the petitioner and of Mr.B.VIJAYA KARTHIKEYAN, Central Government Standing Counsel on behalf of the Respondents, While admitting the Writ Petition, the court made the following order:-

The petitioner has filed this petition to grant an Ad interim direction, directing the respondents to provisionally release the goods imported by the petitioner vide bill of Entry Nos.3655257 dated 21.04.2021, 3649935 dated 21.04.2021, 3649146 dated 21.04.2021, 3718109 dated 26.04.2021, 3746469 dated 28.04.2021, 3656537 dated 21.04.2021, 3655260 dated 21.04.2021 and 3655555 dated 21.04.2021 pending disposal of the above writ petition.

2.On the side of the petitioner, it is stated that the petitioner has purchased black pepper from eight sellers from Srilanka. The import of pepper is not prohibited by any law for the time being in force. The petitioner has submitted all the relevant documents and necessary bills. Even then, the respondents had not released the consignments. The respondents sought for some documents on 03.05.2021. Those documents have also been submitted. The petitioner are forced to pay heavy detention charges to the shippers. The pepper is an agricultural product, which is likely to be spoiled in humid conditions. The prolonged retainment will spoil the goods. The respondents have a statutory duty under Section 47 of the Customs Act to release the goods. The black pepper was purchased for a value of more than Rs.500/- per kg and the bill of Entries will prove the same. Hence, an Ad interim direction, directing the respondents to provisionally release the goods imported is necessary to avoid the goods being perished.

3.On the side of the respondents, it is stated that the the petitioner has purchased the pepper only for a lesser amount but has wrongly created bills for a higher amount, i.e., the petitioner purchased the pepper for a sum of Rs.245/- per kg but has produced bills, as if he has purchased the pepper at the rate of Rs.575/- per kg. The local market value is Rs.350/- per kg. No prudent man will import a product at a higher rate, when the same product is locally available for a lesser rate. The motive for the provision is to safeguard the interest of the local agriculturist. The petitioner can preserve the goods in government warehouse for a lower rate. It is the fault of the petitioner to keep the goods unloaded and paying demurrage charges.

4.New Ceylon Spice Export Private Limited, Srilanka, is one of the eight sellers from whom the present petitioner has purchased the goods. A copy of the statement recorded by the DRI, Bangalore from



one Shri Sujith Thundiyil Abdul Jabbar, who is a purchaser from the same seller is filed, wherein that purchaser has given a statement under Section 108 of Customs Act, admitting that he has purchased pepper for a lesser amount and that in the bill, a higher rate was mentioned only to circumvent the minimum import price. That purchase was made on 25.03.2021 and that statement was recorded on 27.03.2021 and that statement recorded under Section 108 of Customs Act is admissible in evidence.

5. On the side of the respondents, it is stated that the respondents have already passed an order for the seizure of the goods and the release of the goods will make the seizure proceedings infructuous and prayed the petition to be dismissed.

6. The applicability of the statement given by another purchaser before the DRI, Bangalore to the present case cannot be decided in this petition. The consignment is pepper, which is an agricultural product. Keeping the products unloaded and making the petitioner to pay demurrage charges is of no use to both the parties. Keeping the consignment in Government warehouse may lead to spoilage of the agricultural products.

7. In the above circumstances, this Court is inclined to grant an Ad Interim Direction, directing the respondents to provisionally release the goods imported to the petitioner on the following conditions :-

"(i) The petitioner shall deposit a sum of Rs.50,00,000/- (Rupees Fifty Lakhs only) before the second respondent and he has to execute a bond for a sum of Rs.6,00,00,000/- (Rupees Six Crores only) before the second respondent.

(ii) The petitioner shall not alienate or alter the goods.

(iii) The products should be kept safe somewhere within the local jurisdiction of the respondents.

(iv) The place of the storage of the products has to be intimated to the respondents.

(v) The respondents are directed to complete the enquiry within a period of two weeks from the date of receipt of copy of this order.

(vi) The petitioner shall produce the above said products as and when required, by the respondents.



(vii) If any of the aforesaid conditions are violated,
this order automatically stands cancelled. "

sd/-
27/05/2021

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/ /2021

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

TO

- 1 THE SUPERINTENDENT,
THE TUTICORIN CUSTOMS HOUSE,
TUTICORIN PORT.
- 2 THE DEPUTY DIRECTOR
DIRECTORATE OF REVENUE INTELLIGENCE,
TUTICORIN.

ORDER
IN
WMP (MD) No.7249 of 2021
IN
W.P. (MD) No.9516 of 2021
Date : 27/05/2021

MRN
MS/AKM/SAR-3/28.05.2021/4P.3C