



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08.2021

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.13694 of 2021

WEB COPY

M/s.Diamond Nuts,
Represented by its Authorised Signatory,
Dr.R.K.Bhoodes,
No.21, Prashanthinagarm,
Building No.5/653, Mangadu
Kollam, Kerala.

...Petitioner

-Vs-

The Deputy Commissioner of Customs (Group 1),
Custom House, Harbour Estate,
Tuticorin-628 004.

...Respondent

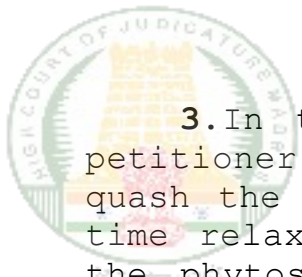
Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the respondent to issue a detention certificate recommending waiver of detention and demurrage charges and to ensure grant of waiver demurrage and detention charges on the goods covered by bill of entry No.7899664, dated 13.06.2020.

For Petitioner : Mr.Hari Radhakrishnan
For Respondent : Mr.R.Aravindhnan
Senior Standing Counsel

ORDER

The prayer sought for in this writ petition is for a Writ of Mandamus, directing the respondent to issue a detention certificate recommending waiver of detention and demurrage charges and to ensure grant of waiver demurrage and detention charges on the goods covered by bill of entry No.7899664, dated 13.06.2020.

2.The petitioner had imported 133.158 MTs of raw cashew nuts, vide bill of entry No.7899664 dated 13.06.2020 filed with Tuticorin Customs. The Plant Protection Officer in Plant Quarantine Station, Tuticorin raised certain objections on the phytosanitary certificate issued on this consignment. Therefore, it seems that the consignments are not permitted to clear. Therefore, in this regard, the petitioner had filed a writ petition in W.P.(MD)No.8114 of 2021. Simultaneously, the petitioner had filed another writ petition in W.P.(MD)No.8118 of 2021.



3. In the first writ petition, the prayer sought for by the petitioner was against the impugned order dated 30.03.2021 to quash the same and to direct the customs authorities to give one time relaxation in view of the alleged discrepancy found out in the phytosanitary certificate. In W.P.(MD)No.8118 of 2021, the prayer sought for is to issue a Writ of Mandamus, to the customs authorities to grant waiver of demurrage and detention charges on the goods in the said bill of entry dated 13.06.2020. Both the writ petitions were heard by a learned Judge of this Court and disposed of by two separate orders on 06.05.2021.

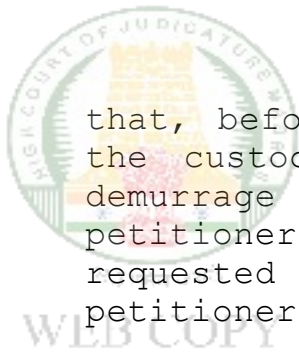
4. In the said order in W.P.(MD)No.8114 of 2021, the learned Judge allowed the writ petition setting aside the impugned order dated 30.03.2021 and the matter was remanded back to the customs authorities for providing onetime relaxation to the petitioner under Article 14 of the Plant Quarantine (Regulations of Import into India) Order, 2003 within the timeframe.

5. In the said order in W.P.(MD)No.8118 of 2021, the learned Judge has observed as follows:

"2. Since the issue is pending with the first respondent on the entitlement of the petitioner for one time relaxation, as per Article 14 of the Plant Quarantine (Regulations of Import into India) Order, 2003 and the order passed by this Court in W.P.(MD)No.8114 of 2021, directing the first respondent to fumigate the goods through an accredited treatment provider, by providing one time relaxation to the petitioner under Article 14 of the Plant Quarantine (Regulations of Import into India) Order, 2003, this writ petition is closed at present, with liberty to the petitioner to renew this application, pursuant to the orders of the first respondent in W.P.(MD)No.8114 of 2021. Till such time, the respondents shall not take any coercive steps as against this petitioner in demurrage and detention charges on the goods. No costs. Consequently, connected miscellaneous petition is closed."

6. Subsequent to these orders passed by the learned Judge of this Court in the aforesaid writ petitions filed by the petitioner, subsequently, the plea of the petitioner for grant of onetime waiver has been considered and granted and accordingly, the goods in question were permitted to be released by the orders issued in this regard, dated 12.07.2021.

<https://hcservices.ecourt.gov.in/hcservices> 7. In this context, the further case of the petitioner is



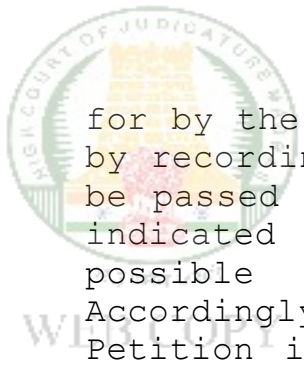
that, before the goods get released, since the goods had been in the custody of the customs authorities, they were seeking for demurrage and in order to waive the demurrage charges, the petitioner seeks a detention certificate. The same though had been requested by the petitioner, since it was not considered, the petitioner has moved this writ petition with the aforesaid prayer.

8.Mr.Hari Radhakrishnan, learned counsel appearing for the petitioner having reiterated the aforesaid facts, seeks indulgence of this Court to give a direction to the respondent to give detention certificate enabling the petitioner to get waiver of demurrage charges for the goods, which had been kept in the custody of the customs for all these time and the goods since had been released, ofcourse pursuant to the orders passed by this Court referred to above.

9.In response to the same, the learned Standing Counsel appearing for the respondent on instructions would submit that, since the orders passed by this Court in the aforesaid writ petitions especially in the context of the first writ petition have been complied with, the petitioner would be entitled to get the detention certificate in this regard, as the same also has been indicated by the learned Judge of this Court in the order passed in W.P.(MD)No.8118 of 2021 dated 06.05.2021. The learned Standing Counsel would further submit that he has given a written opinion on 07.08.2021 to the authorities concerned. On the basis of the opinion given by the learned Standing Counsel, since it was sought for by him, the Assistant Commissioner (Legal) in the office of the Commissioner of Customs, Tuticorin has in turn sent a communication on 09.08.2021 to the Assistant Commissioner of Customs (Import) to pass necessary orders to give detention certificate and to order of waiver of demurrage charges and certainly, that would be acted upon by the concerned officer, within a shortest possible time. Therefore, no further order giving direction to give such detention certificate as claimed by the petitioner through the prayer sought for herein need not be once again given, he contended.

10.I have considered the said rival submissions made by the parties and perused the materials placed before this Court.

11.In view of the stand taken by the learned Standing Counsel appearing for the respondent that he has already rendered opinion to comply with the directions already indicated in the order of this Court in W.P.(MD)No.8118 of 2021 and such opinion having been accepted was acted upon by sending communication dated 09.08.2021 by the Assistant Commissioner (Legal) (Customs) to the Assistant Commissioner (Import) at Tuticorin, and necessary orders ~~definitely~~ be passed by such Officer giving relief sought



for by the petitioner in this writ petition, this Court feels that by recording the aforesaid development that necessary orders would be passed by the Assistant Commissioner (Import) at Tuticorin, as indicated above in favour of the petitioner within the shortest possible time, this Writ Petition can be disposed of. Accordingly, by recording the aforesaid development, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS III)

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/ /2021

Sub Assistant Registrar(CS)

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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

The Deputy Commissioner of Customs (Group 1),
Custom House, Harbour Estate,
Tuticorin-628 004.

Copy to

The Assistant Commissioner(Import),
Tuticorin.

W.P. (MD)No.13694 of 2021

11.08.2021

NSN(CO)

SB(29.09.2021) 4P 3C