



WEB COPY

W.P.(MD)No.17145 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.09.2021

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD)No.17145 of 2021

and

WMP (MD) .No.14042 of 2021

S.M.Mohamed Ibrahim & Company
Private Limited,
Rep. by its Director
Mr.M.Mohamed Farooq

... Petitioner

Vs.

Designated Officer,
Office of the Designated Officer,
Department of Food Safety and Drug
Administration,
Pudukottai - 622 001.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to letter Na.Ka.No.513-4(Kalai) A-1/2021 dated 03.09.2021 issued by the respondent, quash the same as arbitrary and illegal.

For Petitioner	: Mr.Joseph Prabakar
For Respondent	: Mr.R.Baskaran, Additional Advocate General, Assisted by Mr.P.Subbaraj, Counsel for the State.

O R D E R

The petitioner challenges an urgent notice dated 03.09.2021 from the respondent.

2.The petitioner states that it deals in unmanufactured tobacco. In other words, the petitioner contends that it procures raw tobacco and does not subject the same to processing by adding additives or ingredients thereto. As such, the contention is that neither production nor manufacture is done. The petitioner also contends that apart from the specified quantity of tobacco, nothing else was seized from the premises of the petitioner, thereby indicating that it is not undertaking any manufacturing process. With regard to the impugned notice, the petitioner states that such notice proceeds on the assumption that the product is adulterated or misbranded. The petitioner states that the notice is not sustainable inasmuch as it proceeds on completely erroneous assumptions. In addition, the petitioner points out that the notice indicates that the petitioner is manufacturing processed chewing tobacco, whereas the petitioner only deals in unmanufactured tobacco. The impugned order is assailed on these grounds.

<https://hcservices.ecourts.gov.in/hcservices/>



3.Mr.P.Subbaraj, learned Counsel for the State, accepts notice on behalf of the respondent. Mr.R.Baskaran, learned Additional Advocate General, appeared on his behalf. Learned Additional Advocate General points out that the impugned notice categorically states that the petitioner is manufacturing a prohibited product. In this connection, he draws reference to Form-III, i.e. the form of order of seizure and points out that such Form-III indicates that the petitioner is manufacturing and selling a product under the brand name 'Kalai'. On this basis, he points out that it cannot be said that the petitioner is merely dealing with tobacco as would be the case with a farmer who cultivates tobacco.

4.The impugned order calls upon the petitioner to stop production or manufacturing and to report in such regard within fifteen (15) days. To that extent, the impugned order has deprived the petitioner of an opportunity to provide an explanation as to why the product of the petitioner does not violate the relevant Government Order. Therefore, the petitioner is permitted to respond to the notice dated 03.09.2021 and provide an explanation as to why its products are not prohibited. Such reply shall be sent within a period of forty eight (48) hours from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is directed to consider such reply and issue a reasoned order within fifteen (15) days from the date of receipt of the reply from the petitioner. Until such time, the respondent is directed not to take coercive steps against the petitioner.

5.W.P.(MD)No.17145 of 2021 is disposed of on these terms without any order as to costs. Consequently, W.M.P.(MD).No.14042 of 2021 stands closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

Designated Officer,
Office of the Designated Officer,
Department of Food Safety and Drug
Administration,
Pudukottai - 622 001.

W.P. (MD)No.17145 of 2021

23.09.2021

RS (05.10.2021) 2P 2C