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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.2370 of 2022

and

W.M.P.No.2532 of 2022

M/s.Empire Traders,

Rep. By its partner Mr.Mohammed Shahirsha

...Petitioner

-Vs-

1. The Commissioner of Customs,
Chennai II Commissionerate,
Custom House, No.60, Rajai Salai,
Chennai-600 001.
2. The Deputy Commissioner of Customs (SIIB),
Custom House, No.60, Rajaji Salai,
Chennai-600 001.
3. The Joint/Additional Commissioner
of Customs (SIIB),
Custom House, No.60, Rajaji Salai,
Chennai-600 001. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents herein to release the good 450 Bags viz., 27,000 Kgs of Srilankan Areca Nuts whole imported vide Bill of Entry No.6670171, dated 14.12.2021, which was finally assessed by the Proper Officer under the Customs Act.

For Petitioner : Mr.A.K.Jayaraj

For Respondents : Mr.M.Santhanaraman,
Senior Standing Counsel

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents herein to release the goods i.e., 450



Bags viz., 27,000 Kgs of Srilankan Areca Nuts whole imported vide Bill of Entry No.6670171, dated 14.12.2021, which was finally assessed by the Proper Officer under the Customs Act.

2. The petitioner has imported 450 bags viz., 27,000 Kgs of Srilankan Areca Nuts imported by Bill of Entry No.6670171, dated 14.12.2021. However, the respondent customs has seized the goods and it has been kept in their custody.

3. In order to release the goods provisionally, the petitioner has made a request which since has not been considered, he has approached this Court by filing the present Writ Petition with the aforesaid prayer.

4. Notice has already been ordered in this case. Therefore, taking notice Mr.Santhanaraman, learned Senior Standing Counsel appearing for the respondent customs has come before this Court today with the counter affidavit in the main Writ Petition.

5. The learned Senior Standing Counsel appearing for the respondent has brought to the notice of this Court about the subsequent development where during the pendency of the Writ Petition by letter dated 10.03.2022, the petitioner has given a request to the respondent customs to permit him to re-export the goods in question. In this regard, the copy of the letter dated 10.03.2022 of the petitioner has been filed by the respondent counsel before this Court where inter alia the petitioner has stated the following.

"On knowing about the detention notice, we approached the SIIB department and given our statement for the investigation process and later the department have conducted 100 % examination of the cargo and satisfied with the cargo and the documents declaration made by us.

Now it has come to our information that due to some mismatch of sign in the ISFTA submitted, option of giving Bank Guarantee for the full duty foregone value for permitting the clearance pending authenticity verification of the ISFTA certificate.

We submit that we have imported the goods considering that the cargo will be cleared in a planned time limit but unexpectedly SIIB intervention and the subsequent process took more time and now almost the goods are in 3 months storage at CFS.

The container was arrived long back and



We also submit that re-export charges and expenses have to be borne by us in addition to price loss due to quality deterioration of the cargo, detention and storage of container, so we humbly request your good self to permit re-export without imposing any fine and penalty but with granting Personal Hearing to represent our case before passing any orders."

- This Writ Petition in respect of the prayer sought for herein is concerned, has become infructuous.
- However, since a request has been made on 10.03.2022 by the petitioner to re-export the goods, the same shall be considered by the respondent on merits and in accordance with law after giving personal hearing to the petitioner in this regard.



- A final decision with regard to the said plea shall be intimated to the petitioner. The needful as indicated above shall be undertaken within a period of four weeks from the date of receipt of a copy of this order.

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7. With these directions and observations, this Writ Petition is disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

anu/kst

To

1. The Commissioner of Customs,
Chennai II Commissionerate, Custom House,
No.60, Rajai Salai, Chennai-600 001.
2. The Deputy Commissioner of Customs (SIIB),
Custom House, No.60, Rajaji Salai,
Chennai-600 001.
3. The Joint/Additional Commissioner
of Customs (SIIB),
Custom House, No.60, Rajaji Salai,
Chennai-600 001.

+1cc to Mr.Jayaraj, Advocate SR.No.17306

+1cc to Mr.Santhanaraman, Advocate SR.No.17488

W.P.No.2370 of 2022

MG(CO)

GN(24/03/2022)