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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.11019,11220, 11228 & 11401 of 2022

WMP.Nos.13727, 13729 & 13732 of 2022

M/s.Global Oil and Company
Plot No.510, Wathoda Road, Near
Bhola Sing Naik School, Hiwari Nagar,
Bhandeewadi, Nagpur, Maharastra - 440 009,
India, rep. by its partner
Shri Nilesh Dwarkadas Dhingra

... Petitioner in W.P.No.11019 of 2022

M/s.Hamza Enterprises,
No.561, BDA Land APMC Yard,
Yeshwanthpur, Bangalore - 560 022
Represented by its Partner
Mr.Mohammed Ershad Ahmed

... Petitioner in W.P.No.11220 of 2022

M/s.Guru Krupa Traders,
Flat No.302, Nanik Ashtvinayak Apartment,
Kalpana Nagar, Nagpur - 440 026,
Rep. by its Proprietor
Mr.Yadbinder Singh Mangat

... Petitioner in W.P.No.11228 of 2022

M/s.Balaji Multiplex Pvt.Ltd.,
157, Rabindra Sarani, Kolkata - 700 007,
Rep. by Director Shri Vishal Pandey

... Petitioner in W.P.No.11401 of 2022

Vs

1.Assistant Commissioner of Customs -
Imports Group I, Chennai - II,
Commissionerate, Custom House,
No.60, Rajaji Salai, Chennai - 600 001.

2.The Additional Commissioner of Customs -
Imports, Group I, Chennai - II,
Commissionerate, Custom House,
No.60, Rajaji Salai,
Chennai - 600 001.

... Respondents in all W.P.'s



3.The Additional Director General,
Directorate of Revenue Intelligence,
South Zonal Unit, No.27 Adarsh Towers,
G.N.Chetty Road, T.Nagar, Chennai - 600 017.

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(R3 impleaded vide order dated 08.06.2022)

... R3 in W.P.Nos.11019, 11220 &
11228 of 2022

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to permit the petitioners to re-export the goods namely 'Unflavoured Supari' (Betelnut Product) classifiable under ITC (HS) code 21069030 covered under Bill of Entry No.7666984 dated 27.02.2022 consisting of 04x40' Containers i.e., 2304821 F GESU4362234; 2304821 F GESU5641022; 2304821 F TIDU5210074 and 2304821 F TLHU8177156 in W.P.No.11019 of 2022, Bill of Entry No.7635792 dated 24.02.2022 consisting of 10x20' Containers i.e., 2304645 F AMFU3238906; 2304645 F GESU3747041; 2304645 F MXCU0009601; 2304645 F MXCU0012499; 2304645 F MXCU0015137; 2304645 F MXCU0018542; 2304645 F MXCU0061180; 2304645 F NLLU9024030; 2304645 F TRLU2578090; 2304645 F UXXU2258353 in W.P.No.11220 of 2022, Bill of lading No. BLPLRGN2200371 consisting of 6 X 40' HC containers i.e. 2304764 F DRYU9722537; 2304764 F GIPU5027643; 2304764 F IALU4581517; 2304764 F TEMU6682351; 2304764 F TGHU9211779; 2304764 F WWWU9607855, Bill of lading No. BLPLRGN2200372 consisting of 4 X 40' HC i.e. 2304764 F TCNU2398624; 2304764 F TEMU6675861; 2304764 F TGHU6947560; 2304764 F TGHU9564457; Bill of lading No. BLPLRGN2200373 consisting of 3 X 40' HC, i.e., RFCU4040727-40HC/BLPL272563; TCNU2610559-40HC/BLPL272564 and TCNU2535645-40HC/BLPL273565, Bill of lading No. BLPLRGN2200374 consisting of 3 X 40' HC, i.e., BLZU4170117-40HC/BLPL273562; TGHU9127251-40HC/BLPL273561; IALU4553259-40HC/BLPL273566 in W.P.No.11228 of 2022, Bill of Entry No.7148028 dated 19.01.2022 consisting of 03 x 40' Containers i.e., TCNU2536699-40HC/BLPL2591D4/374 Bags, TGHU9806885-40HC/BLPL259103/373 Bags, TEMU6685670-40HC/BLPL259105/373 Bags in W.P.No.11401 of 2022 within a stipulated time considering the perishable nature of the goods that were detained / seized by the office of the respondents under Mahazar and direct the respondents to issue a 'Detention Certificate' for waiver of demurrage and container detention charges in terms of Regulations 6(1)(I) of the Handling of Cargo in Customs Areas Regulations, 2009 read with Regulation 10(1)(I) of the Sea Cargo Manifest Transshipment Regulations, 2018.

In all WPs

For Petitioner : Mr.J.Shankarraman

For Respondents : Mr.V.Sundareswaran

Senior Panel Counsel



COMMON ORDER

Heard Mr.J.Shankarraman, learned counsel for the petitioners and Mr.V.Sundareswaran, learned Senior Panel Counsel for the respondents.

2. WMP.Nos.13727, 13729 & 13732 of 2022 are ordered in light of there being no objection by the learned counsel for the petitioner.

3. The petitioners have imported a consignment of betelnut from entities based in Indonesia and Myanmar. However, the goods have been detained and, according to the learned Senior Panel Counsel for the respondents, investigation is ongoing in regard to the classification of the goods and assessment of duty. The aspect of whether the goods are prohibited goods is also under investigation.

4. While this is so, the petitioners appear to have moved representations before the respondents as early as on 01.04.2022, 24.03.2022, 24.03.2022 & 30.03.2022 requesting that they may be permitted to re-export the consignment sans adjudication fine and penalty. The petitioners represent that the goods are perishable in nature and in such an event it would constitute a national waste.

5. Admittedly, these representations have been received by R1 on 01.04.2022 (seal affixed), and are pending till date. Learned Senior Panel Counsel would point out that there have been several attempts made to pursue the investigation/adjudication proceedings but there has been no co-operation on the part of the petitioners.

6. It is made clear that the petitioner will cooperate with the respondents in respect of the pending proceedings and to notices, if any, received from the respondents. In any event, for the purpose of disposal of the representations dated 01.04.2022, 24.03.2022, 24.03.2022 & 30.03.2022, the petitioners are permitted to appear before R1 on Thursday, the 16th of June, 2022 at 10.30 a.m.

7. R1 will take a view in regard to the request of the petitioner dated 01.04.2022, 24.03.2022, 24.03.2022 & 30.03.2022, taking into account the matter, in its perspectives and in accordance with law within a period of four weeks from date of personal hearing fixed on 16.06.2022.

8. The prayer of the petitioners for a direction to the respondents to re-export the consignment is not liable to be



acceded to, seeing as the question of re-export involves determination of various facts, which only the authorities would be competent to undertake.

9. These writ petitions are disposed as above. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. Assistant Commissioner of Customs -
Imports Group I, Chennai - II,
Commissionerate, Custom House,
No.60, Rajaji Salai, Chennai - 600 001.

2. The Additional Commissioner of Customs -
Imports, Group I, Chennai - II,
Commissionerate, Custom House,
No.60, Rajaji Salai,
Chennai - 600 001.

3. The Additional Director General,
Directorate of Revenue Intelligence,
South Zonal Unit, No.27 Adarsh Towers,
G.N.Chetty Road, T.Nagar, Chennai - 600 017.

+1cc to Mr.V.Sundareswaran, Advocate, S.R.No.32982

+4ccs to Mr.J.Shankarraman, Advocate, S.R.No.33886 [10/06/2022]

+1cc to Mr.V.Sundareswaran, Advocate, S.R.No.34083 (15/06/2022)

W.P.Nos.11019,11220, 11228 & 11401 of 2022
WMP.Nos.13727, 13729 & 13732 of 2022

SPD(CO)
SB(09/06/2022)