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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2022

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.Nos.14806 and 14807 of 2022

Ms/ Kawarlal & Co,
No.27, Raghunayakulu Street,
Chennai - 600 003.
by its Proprietor K.Ramlal Jain

... Petitioner in both the
writ petitions

Versus

1. The Deputy Drugs Controller (I).
CDSCO, South Zone,
Ministry of Health & Family Welfare,
Govt. of India, 2nd Floor, Shastri Bhavan Annexe,
No.26, Haddows Road, Chennai - 600 006.
2. The Drugs Inspector,
O/o. The Deputy Drugs Collector (I),
CDSCO, South Zone,
Ministry of Health & Family Welfare,
Govt. of India, 2nd Floor, Shastri Bhavan Annexe,
No.26, Haddows Road, Chennai - 600 006.

.. Respondents in both the
writ petitions

W.P.No.14806 of 2022:Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus directing the respondents to consider the petitioner's representation dated 16.03.2022, to release the goods viz., Trimetadizine Dihydrochloride, based on the test report dated 15.05.2019 in Form 13 No.32-10/2019-SS/DCA(S)-1/499, given by CDTL, Kolkata, declaring the goods to be " Quality in Nature", by also further taking into consideration the shelf life and the further possibility of the deterioration of the goods, owing to its non-usage and further reduction in value and the marketability of the goods.



W.P.No.14807 of 2022: Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus directing the respondents to consider the petitioner's representation dated 16.03.2022, to release the goods viz., Silymarin 70%, based on the test report dated 09.10.2019 in Form 13 No.32-10/2019-SS/DCA(S)-6/2452, given by CDTL, Kolkata, declaring the goods to be "Quality in Nature", and by also further taking into consideration the shelf life and the further possibility of the deterioration of the goods, owing to its non-usage and further reduction in value and the marketability of the goods.

For Petitioner : Mr.S.Baskaran
For Respondents : Mr.S.Janarthanan
SPCGSC

COMMON ORDER

These writ petitions have been filed seeking for a direction to the respondents to consider the petitioner's representation dated 16.03.2022 requesting the respondents to release the goods viz., Trimetadizine Dihydrochloride and Silymarin based on the test reports dated 15.05.2019 in Form 13 No.32-10/2019-SS/DCA(S)-1/499(WP No.14806 of 2022) and 09.10.2019 in Form 13 No.32-10/2019-SS/DCA(S)-6/2452 (WP No.14807 of 2021), given by CDTL, Kolkata declaring the goods to be "Quality in Nature",

2. Since the relief sought for in both the writ petitions are to release the goods which have been seized by the respondents based on the very same reason, they are disposed of by a common order.

3. The petitioner contends that the goods were seized by the respondents on suspicion that they are not Trimetadizine Dihydrochloride and Silymarin. According to the petitioner, a test was conducted by CDTL, Kolkata and the test reports dated 15.05.2019 and 09.10.2019 were also submitted declaring the goods to be "Quality in Nature". Since the goods are quality in nature, the petitioner has given separate representation on 16.03.2022 seeking release of such goods. Since the representation has not been considered till date, the petitioner has filed these writ petitions.

4. Heard Mr.S.Baskaran, learned counsel for the petitioner and Mr.S.Janarthanan, learned Senior Panel Central Government Standing Counsel for the respondents.



5. The learned Senior Panel Central Government Standing Counsel appearing for the respondents, on instructions, would submit that the respondents had sent a communication dated 17.06.2022 informing him that a criminal case in C.C.Nos.197 and 198 of 2021 are pending against the petitioner and the matter is sub judice before the Chief Judicial Magistrate, Thiruvallur. The E-mail communication received by the learned Standing Counsel for the respondents from his clients is placed before this Court. However, the learned counsel for the petitioner would submit that the further proceedings in C.C.Nos.197 and 198 of 2021, pending on the file of Chief Judicial Magistrate, Thiruvallur have now been stayed by the order of this Court on 21.02.2022 in Crl.M.P.Nos.1548 and 1550 of 2022 in Crl.O.P.No.3352 of 2022.

6. In W.P.No.14806 of 2022, the goods seized by the respondents is Trimetadizine Dihydrochloride and in W.P.No.14807 of 2022, the goods seized by the respondents is Silymarin. According to the petitioner, in respect of both the goods, it has now been declared, as seen from the test report, that they are "quality in nature". In respect of both the goods, separate representation dated 16.03.2022 has been given by the petitioner, seeking for release of the goods based on the test reports.

7. The submissions made by the learned Standing counsel appearing for the respondents, on instructions, as stated supra, is recorded. Since further proceedings in C.C.Nos.197 and 198 of 2021 are ordered to be stayed by this Court in Crl.M.P.Nos.1548 and 1550 of 2022 in Crl.O.P.No.3352 of 2022 and the goods seized are perishable in nature and shelf life expires in August 2022, this Court is of the view that no prejudice would be caused if the petitioner's representation seeking for release of the goods is considered on merits and in accordance with law in accordance with the test reports dated 15.05.2019 and 09.10.2019 within a time frame to be fixed by this Court.

8. For the foregoing reasons, this Court directs the respondents to pass final orders on the separate representation dated 16.03.2022 given by the petitioner seeking for release of the seized goods viz., Trimetadizine Dihydrochloride and Silymarin based on the test reports dated 15.05.2019 and 09.10.2019 within a period of four weeks from the date of receipt of a copy of this order after affording a fair hearing to the petitioner.



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9. With the aforesaid direction, both the writ petitions are disposed of. No costs.

Sd/-
Assistant Registrar(CS IV)

True Copy//

Sub Assistant Registrar

sr

To

1. The Deputy Drugs Controller (I).
CDSCO, South Zone,
Ministry of Health & Family Welfare,
Govt. of India, 2nd Floor, Shastri Bhavan Annexe,
No.26, Haddows Road, Chennai - 600 006.
2. The Drugs Inspector,
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No.26, Haddows Road, Chennai - 600 006.

+2ccs to Mr.S.Baskaran, Advocate, S.R.No.37110, 37111
+2ccs to Mr.S.Janarthanan, Advocate, S.R.No.37902,37903

W.P.Nos.14806 and 14807 of 2022

PMK[co]
NSK/28/06/2022