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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 05.01.2022
CORAM:
THE HONOURABLE MR.JUSTICE M.SUNDAR
W.P.[MD]No.23190 of 2021
and
W.M.P.[MD]No.19624 of 2021

Sri Ram Splints Industry,
Rep by its Proprietor Mr.N.Venkatesh,
3/192 B, Main Road,
Chinnakamanpatti,
Virudhunagar – 626 189. ... Petitioner

Vs.

1.Union of India,
Rep by its Joint Secretary (Plant Protection),
Department of Agriculture Co-Operation and Farmers Welfare,
Ministry of Agriculture and Farmers Welfare,
Room No.238, Krishi Bhavan,
New Delhi.

2.The Plan Protection Officer,
Plant Quarantine Station,
Door No.101, Plot No.110, 2nd Street,
C.G.E. Colony, Tuticorin District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to condition No.3 of the Office Memorandum of the first respondent in O.M.No.8-131/2016-PP.II, dated 28.06.2017 and quash the same.

For Petitioner : Mr.K.Hemakarthikeyan

O R D E R

In the captioned main Writ Petition, condition No.3 in Office Memorandum dated 28.06.2017 bearing Reference O.M.No.8-131/2016-PP.II issued by the first respondent has been assailed. To be noted this office memorandum provides for relaxation of fumigation regulations for import of agricultural commodities for which fumigation treatment with Methyl Bromide is stipulated in Plant Quarantine regulation of Import into India Order 2003 [hereinafter 'PQ order, 2003' for the sake of convenience and clarity].

2.It is submitted that the Central Government in exercise of

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its order making power under Section 3(1) of the Destructive Insects and Pests Act, 1914 (2 of 1914) has made an order dated 18.11.2003 and this is the PQ order 2003. It is also submitted that Order No.14 which finds its slot under Chapter VI provides for relaxation but there is no provision for imposition of penalty.

3.Learned Counsel also drew the attention of this Court to an interim order granted by another Hon'ble Single Judge being order dated 04.08.2017 in W.M.P.[MD]No.11471 of 2017 in W.P.[MD]No.14631 of 2017.

4.A careful perusal of the interim order brings to light that it was a case where the writ petitioner appears to have imported certain wood items used in Match Industry and permitted by the Government of India but in the case on hand there are no details about the consignment that has been imported. This means that the cause of action or the trigger for captioned writ petition has not been set out in the writ affidavit.

5.Faced with the above situation learned Counsel for writ petitioner submitted that he would file a writ petition afresh giving details of the cause of action ie., the trigger for captioned writ petition if leave is granted to withdraw the captioned writ petition with such liberty. Request acceded to.

6.Though obvious it is made clear that I have not expressed any view or opinion on the merits of the matter and the factual matrix has been captured only for better appreciation if there is a fresh writ petition.

7.Captioned Writ Petition and captioned Writ Miscellaneous Petition thereat are disposed of as closed albeit preserving the rights of the writ petitioner to the extent and in the manner set out supra. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MR

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.*

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To

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Union of India
Department of Agriculture Co-Operation and Farmers Welfare,
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Room No.238, Krishi Bhavan,
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