



Crl.M.P.Nos.5279, 5276 and 7564 of 2023
in Crl.O.P.Nos.25607, 25608 and 22924 of 2021

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These petitions are to permit the petitioners to destroy the goods that were seized by the respondent/drug inspector during their search of the petitioners' premises on various dates.

2. Mr.S.Baskaran, the learned counsel for the petitioner submitted that;

(a) The drugs were seized in the year 2019. The respondent had filed a complaint against the petitioner without any basis and hence, he has filed the above petitions in Crl.O.P.Nos.25607, 25608 and 22924 of 2021, In the meantime, the shelf life of the drugs seized by the respondent had expired. The drugs seized in all the three cases are now in the custody of learned Chief Judicial Magistrate, Thiruvallur, though it is physically in the godown of the petitioner sealed by the respondent. The drugs are not necessary for the trial. The respondent had taken samples and also had tested the samples. The samples and the test reports are sufficient for the purpose of the trial.



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(b) The learned counsel further submitted that if the goods are destroyed, the petitioner can account for the same with the GST and Income Tax Authority and can claim refund of tax from the concerned authorities. Hence, the learned counsel for the petitioner prayed that no prejudice would be caused to the respondent, if the goods are destroyed in the presence of the respondent and a destruction certificate is issued to them.

3. Mr.K.S.Jeyaganesan, learned counsel for the respondent, *per contra*, submitted that the petitioner's request can be considered in view of the letter dated 02.05.2023, written by the Directorate General of Health Services, Central Drugs Standard Control Organization to the Deputy Drugs Controller (i), wherein he had stated that the petitioner's request for the destruction of the goods can be considered after ensuring that it does not affect the trial. The relevant portion of the letter reads as follows:

*“This is with reference to order dated
20.12.2022 passed in W.P (C) No.
29236/2022, 29236/2022, 33087/2022,*



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33088/2022 & 33170/2022 and the representation dated 28.1.2023 made as per the order dated 01.11.2021 passed in W.P No. 21655 & 21658/2021, order dated 20.06.2022 in W.P No 14806/2022 & 14807/2022 and Order dated 04.08.2022 in W.P No. 16789/2022 & 16789/2022 wherein the Hon'ble High Court had directed us to consider the petitioner's representation for release all seven (7) goods and pass appropriate order in accordance to law within four weeks from the date of receipt of order.

The matter has been examined and in this regard, you may consider the petitioner request of the destruction of the goods as the shelf life of the goods has already expired after suitably marking the evidence. The said destruction of the goods will be subject to the consent and approval of the trial Court, which has the custody of the same. You are further directed that in case the Hon'ble Court grants its approval, this fact may be immediately apprised to the CDSCO (HQ), so that the said goods are destroyed in consultation with this directorate."



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4. This Court on hearing the submissions made by the learned counsels on either side finds that the request of the petitioners can be considered. No prejudice would be caused to the respondent, if the seized goods are destroyed in their presence. As fairly submitted by the learned counsel for the respondent, the seized goods are not necessary for the purpose of the trial. The respondent can independently establish the offences alleged in the complaint based on the other materials and documents on record.

5. In view of the same, there shall a direction to the learned Chief Judicial Magistrate, Thiruvallur to return the seized goods to the respondent in C.C.Nos.193, 195 and 197 of 2021. On receipt of such goods, the respondent shall destroy the goods in the presence of the petitioner and issue destruction certificates to the petitioner, and inform the learned Chief Judicial Magistrate, Thiruvallur along with a copy of the destruction certificates.

6. It is further submitted that the shelf life of the goods had expired and the goods are in the godown of the petitioner and sealed by the



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respondent and is emanating a bad smell. Hence, the above process may be expedited and the learned Chief Judicial Magistrate, Thiruvallur may return the goods within a period of two (2) weeks from the date of receipt of a copy of this order and the respondent shall destroy the goods in the presence of the petitioners within a period of four (4) weeks, thereafter.

7. With the above observations, these Criminal Miscellaneous Petitions are allowed.

30.06.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

Note: Office to issue order copy on **06.07.2023**



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SUNDER MOHAN, J

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Dated: 30.06.2023