



WEB COPY



W.P.No.17003 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2023

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MR.JUSTICE N.SESHASAYEE

W.P.No.17003 of 2023
and W.M.P.No.16204 of 2023

M/s.Shree Metals
Rep. by its Partner
Ganesh Kumar
No.234/174, Lingi Chetty Street
Parrys, Chennai 600 001

... Petitioner

Vs.

1.Scientist Bureau of Indian Standards
Chennai Branch Officer - I
Rep. by its Scientist - 'E' & Director Head
CIT Campus, IV Cross Road, Taramani
Chennai 600 113

2.The Deputy Director
Bureau of Indian Standards
Ministry of Consumer Affairs
Food & Public Distribution Government of India
Chennai Branch office - I
CIT Campus, IV Cross Road, Taramani
Chennai 600 113

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of



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India, for issuance of a writ of Mandamus, to direct the respondents herein to de-seal and release the articles seized by the respondents by proceedings dated 07.02.2023 under ref. No.CNBO/2/5/2023 at the petitioner's premises at No.234/174, Lingi Chetty Street, Parrys, Chennai 600 001.

For Petitioner : Mrs.AL.Gandhimathi
Senior Counsel

For Respondents : Mr.Karthik Sundaram - R1

Mr.N.K.Nithila Vani
Central Government Counsel - R2

ORDER

The petitioner herein has filed the writ of mandamus, seeking a direction to the respondents to forthwith remove the seal and release the articles.

2. The petitioner introduces himself as a dealer in stainless steel pipes etc., While so, on 07.02.2023, the officials of the respondents visited his premises and sealed certain articles of the petitioner.

3.The counter has been filed and the contention of the respondents is that the petitioner is a trader in stainless steel pipes, and in the context of the



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standards as fixed by the respondents, the standards fixed for the raw materials and that of the finished products would be differently made. So far as the raw materials used are concerned, it is of prescribed standard and there is no issues about it. However, insofar as the standards of the finished products are concerned, the Bureau has not certified it, as the finished products do not satisfy the standards prescribed. Since some complaints are received at their end, the respondents have swung into action and found that the stainless steel pipes do not satisfy the standards. It is further contended that the finished products sold by the petitioner were affixed with stickers printed with ISI mark i.e., IS 6911, which according to them, which only relates to the standard requirements of steel plates, sheets and strips, and do not apply to stainless steel tubes and pipes. Hence, the goods were sealed in terms of Bureau of Indian Standard Act 2016, and the respondents are processing the papers to launch a criminal prosecution against the petitioner, for which, the respondents are stated to have three years time in law.

4.Learned counsel for the petitioner submitted that in view of the fact that the Bureau of Indian standards has come out with a notification dated



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20.04.2022, wherein as indicated the standard prescribed for stainless steel plates, sheets and strips for general services. While so, the goods that were seized by the respondents were procured by the petitioner well prior to 20.04.2022, and hence they would not attract any penal action within the scheme of the Bureau of Indian Standards Act, 2016.

5.Per contra, the learned counsel for the respondents would argue that it is not so much about whether the petitioner has procured the seized material prior to 20.04.2022, but it is all about whether they try to project uncertified goods as certified goods by the Indian Standards. So far as the present case is concerned, the stainless steel pipes were not certified under the Act and hence it would be a crime in the meaning of Section 17(2) of the Act, for anyone to make a public claim, through advertisements, sales, promotion leaflets, price lists or the like, that his goods, article, process, system or service conforms to an Indian standard or make such a declaration on the goods or article, without having a valid certificate of conformity or licence from the Bureau or any other authority approved by the Central Government under sub-section (2) of section 16.



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6.Learned counsel added after the goods were seized, the petitioner only wanted the authorities to keep the seized goods in a separate place to facilitate him to use the premises otherwise. This request was made on 23.02.2022 and was acceded to. It is in these backdrop, the petitioner now seeks release of the goods which so far as the respondents are concerned is a contraband and the respondents are in the process of launching a prosecution against the petitioner.

7.Learned counsel for the petitioner would now submit that the petitioner has already given a representation to the respondents and atleast this may be considered by the respondents as it would provide an opportunity to the petitioner to explain its stand before the prosecution is laid. The learned counsel added that the input which the petitioner may provide will also provide the authorities an opportunity to consider if prosecution at all is required. At the end of the day, this court is aware that goods now sought to be released, for the present contraband, whose fate will be decided only during prosecution. Since the learned counsel for the respondents as indicated the offence which the petitioner might have committed will fall



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under Section 17 (2) and under Section 29 of the Act and the same is not even compounded.

8. Without getting into the merit of the rival contention, this Court merely requires the respondents to consider the representation, but strictly within the frame work of the law and if it is possible and feasible.

9. This writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

24.07.2023

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Index : Yes / No

Neutral Citation : Yes / No

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N.SESHASAYEE, J.

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