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Crl.O.P.Nos.18145 and 18146 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2023

CORAM :

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.Nos.18145 and 18146 of 2023

K.Ramlal Jain

**.. Petitioner
(in both the cases)**

Versus

Union of India

**Rep. by Drug Inspector,
Office of the Deputy Drugs Controller (India),
Central Drugs Standard Control Organization,
South Zone, 2nd Floor, Sastri Bhavan Annexe,
Chennai – 600 006.**

**.. Respondent
(in both the cases)**

Prayer in Crl.O.P.No.18145 of 2023 : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to issue necessary direction, to permit the petitioner for destruction of the seized goods by the respondent herein, viz., 250 kgs of Calcium D Pantothenate, in the presence of the respondent / drug officials, so as to account for the same with GST and Income Tax authorities and also for the purpose of applying and getting refund of tax from the said authorities, the goods of which is now the subject matter of C.C.No.196 of 2021 before the learned Chief Judicial Magistrate, Thiruvallur.

Prayer in Crl.O.P.No.18146 of 2023 : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to issue necessary direction, to permit the petitioner for destruction of the seized goods by the respondent herein, viz., 125 kgs of Folic Acid, in the presence of the respondent / drug officials, so as to account for the same with GST and



Crl.O.P.Nos.18145 and 18146 of 2023

Income Tax authorities and also for the purpose of applying and getting refund of tax from the said authorities, the goods of which is now the subject matter of C.C.No.194 of 2021 before the learned Chief Judicial Magistrate, Thiruvallur.

For Petitioner : Mr.S.Baskaran
(in both the cases)

For Respondent : Mr.K.S.Jeyaganeshan,
(in both the cases) Central Government Standing
Counsel

ORDER

These petitions have been filed for a direction to permit the petitioner for destruction of the seized goods by the respondent in the presence of the petitioner.

2. Heard Mr.S.Baskaran, learned Counsel for the petitioner and Mr.K.S.Jeyaganeshan, learned Central Government Standing Counsel for the respondent.

3. The petitioner filed similar petitions before this Court in Crl.M.P.No.5279 of 2023 etc. These petitions were disposed off by an order, dated 30.06.2023 and the relevant portions are extracted hereunder:-

" 3. Mr.K.S.Jeyaganeshan, learned counsel for the respondent, per contra, submitted that the petitioner's request can be considered in view of



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Crl.O.P.Nos.18145 and 18146 of 2023

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, 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



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Crl.O.P.Nos.18145 and 18146 of 2023

apprised to the CDSCO (HQ), so that the said goods are destroyed in consultation with this directorate."

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 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



Crl.O.P.Nos.18145 and 18146 of 2023

of four (4) weeks, thereafter."

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4. These petitions can also be disposed off in terms of the above order. In view of the same, there shall be a direction to the learned Chief Judicial Magistrate, Thiruvallur to return back the goods within a period of two weeks from the date of receipt of a copy of this order and the respondent shall destroy the goods in the presence of the petitioner within a period of two weeks thereafter.

5. These Criminal Original Petitions are disposed off with the above directions.

09.08.2023

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

Note : Issue order copy on 10.08.2023.

To

1. The Chief Judicial Magistrate,
Thiruvallur.
2. The Drug Inspector,
Office of the Deputy Drugs Controller (India),



Crl.O.P.Nos.18145 and 18146 of 2023

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Central Drugs Standard Control Organization,
South Zone, 2nd Floor, Sastri Bhavan Annexe,
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Crl.O.P.Nos.18145 and 18146 of 2023

N.ANAND VENKATESH, J.

grs

Crl.O.P.Nos.18145 and 18146 of 2023

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