



WEB COPY



W.P.Nos.35810 & 35816 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.Nos.35810 & 35816 of 2019

and

W.M.P.Nos.36701 & 36710 of 2019

M/s.S.D.Saw Mill & Timber Merchants,
Represented by its Managing Partner,
Mr.S.Duraisamy, S/o.A.Sellappan,
No.62/8, Yercaud Main Road,
Chinnakollapatty, Salem.

... Petitioner in
W.P.No.35810 of 2019

M/s.S.D.Woods Industries,
Represented by its Managing Partner,
Mr.S.Duraisamy, S/o.A.Sellappan,
No.62/72, Chinnakollapatty,
Yercaud Main Road,Salem.

... Petitioner in
W.P.No.35816 of 2019

Vs.

1.The Union of India,
Represented by its Under Secretary,
Ministry of Agriculture and Farmers Welfare
Department of Agriculture,
Krishi Bhavan, New Delhi.

2.The Plant Protection Officer,
Plant Quarantine Station,



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Door No.101, Plot No.110, 2nd Street,
C.G.E. Colony, Tuticorin District.

3.The Plant Protection Officer,
Plant Quarantine Station,
Chennai.

... Respondents in both WPs

Prayer in W.P.No.35810 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for records relating to condition No.3 of Office Memorandum in O.M.No.8/131/2016-PP.II dated 27.12.2018 issued by the 1st respondent and quash the same.

Prayer in W.P.No.35816 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for records relating to condition No.3 of Office Memorandum in O.M.No.8/131/2016-PP.II dated 27.12.2018 issued by the 1st respondent and quash the same.

For Petitioner : Mr.A.Selvendran
(in both WPs)

For Respondents : Mr.G.Baskaran
(in both WPs) Central Government Standing Counsel

COMMON ORDER

Since the issue raised in both the writ petitions is one and the same, these Writ Petitions were heard together and are disposed of by this common order.



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2. When the matters are taken up for hearing today, the learned counsel for the petitioners fairly conceded that the issue in these writ petitions have already been decided by this Court in W.P.No.18405 of 2019, etc., batch of cases and that the same order may be passed in the above writ petitions as well.

3. Heard the learned counsel on either side and perused the material documents available on record.

4. In an identical circumstances, this Court, in W.P.No.18405 of 2019, etc., batch of cases, by an order dated 06.09.2021, in the case of ***M/s.Best Timbers Vs. The Union of India & 2 Ors.***, in paragraph Nos.6 to 8, has held as follows :

“6. Heard the learned counsel appearing for the respective petitioners as well the learned counsel for the respondents and perused the materials on record. The main contentions put forth on behalf of the petitioners in these writ petitions is that the penalty clause incorporated in the Office Memorandums issued by the first respondent is arbitrary and the first respondent is not empowered to impose any penalty or fee while granting relaxation of the fumigation norms. Such a contention urged on behalf of the petitioners in these writ petitions cannot be countenanced inasmuch



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as Clause 14 (2) of Chapter VI of the Plant Quarantine Order, 2003 empowers the first respondent to impose levy as a condition precedent for permitting the import of the wooden logs. Thus, a discretion has been conferred to the first respondent to impose levy and it cannot be called in question by the petitioners. In such view of the matter, this Court is not inclined to grant the relief, as prayed for in these writ petitions.

7. At this stage, the learned counsel for the respective petitioners prayed this Court to permit the petitioners to challenge the vires of the Plant Quarantine Order, 2003 or any other Rules which empower the first respondent to levy penalty, if they are so advised.

8. Granting such liberty to the petitioners, all these writ petitions are disposed of. No costs. Consequently, all the connected miscellaneous petitions are closed.”

5. In the aforesaid terms, these Writ Petitions are also disposed of granting liberty to the petitioners to challenge the vires of the Plant Quarantine Order, 2003 or any other Rules which empower the first respondent to levy penalty, if they are so advised. No costs. Consequently, the connected miscellaneous petitions are closed.

31.03.2023
(2/2)

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

- 1.The Under Secretary,
Ministry of Agriculture and Farmers Welfare
Department of Agriculture,
Krishi Bhavan, New Delhi.
- 2.The Plant Protection Officer,
Plant Quarantine Station,
Door No.101, Plot No.110, 2nd Street,
C.G.E. Colony, Tuticorin District.
- 3.The Plant Protection Officer,
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