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W.P.No.29831 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.29831 of 2017
and
W.M.P.Nos.32200 to 32202 of 2017
and
W.M.P.No.19809 of 2018

M/s.AR Bachawat Trading Pvt., Ltd.,
Rep.by its authorized signatory Mr.Dinesh
No.27/5, Erulappan Street,
Chennai – 600 079.

...Petitioner

Vs.

The Designated Officer,
Food Safety and Drug Administration
Office of Deputy Director of Health Services,
No.54/5, Assoori Street,
Tiruvallur District, Tiruvallur – 602 001.

..Respondent

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondent herein to release the HANS CHHAP TOBACCO more specifically around 430 boxes and 180 bags of HANS Chhap tobacco seized by them on 01.09.2016.



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For Petitioner : Mr.V.Raghavachari
Senior Advocate
For Mr.D.Saikumaran

For Respondent : Mr.T.Arunkumar
Additional Government Pleader

ORDER

The relief sought for in the present writ petition is for a direction to direct the Respondent to release the HANS CHHAP TOBACCO more specifically around 430 boxes and 180 bags of HANS Chhap tobacco seized by them on 01.09.2016.

2. The facts and circumstances of the present writ petition is similar to that of the writ petition in W.P.No.34737 of 2015 dated 28.04.2023.

3. The learned Senior counsel appearing on behalf of the petitioner mainly contended that the goods seized by the respondents are admittedly with their custody. Therefore, the said goods are to be released.



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4. In view of the orders passed in W.P.No.34737 of 2015 and considering the fact that the Hon'ble Supreme Court of India granted stay of the Hon'ble Division Bench judgment dated 20.01.2023 in W.A.No.2093 of 2018, the relief as such sought for in the present writ petition cannot be granted.

5. The learned Additional Government Pleader appearing on behalf of the respondents made a submission that the goods are expired long back and it cannot be allowed to be released, since it is unfit for consumption. In the interest of public, such expired goods cannot be allowed to be released since there is a possibility of misuse or otherwise by the persons, who all are taking possession of such products after release by the competent authorities or by the Courts.

6. Thus, in the interest of public, this Court is of the opinion that the goods seized, which all are expired became unfit for human consumption are to be destroyed in the manner contemplated, since it is a Tobacco product and to be destroyed by following the procedures.



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7. In this regard, the respondents are directed to issue notice to the petitioner within a period of two weeks from the date of receipt of a copy of this order and provide an opportunity to the petitioner to take a decision, whether the petitioner will destroy the goods by following the procedures by the respondents. If the petitioner undertakes to destroy the goods in their place, then it must be done in the presence of the competent authorities of the Food Safety Department. In the event of destruction by the respondents, then the petitioner is directed to bear the destruction expenditures as demanded by the respondents Department.

8. On receipt of notice from the respondents, which is to be issued within a period of two weeks, the petitioner is at liberty to take a decision and inform the respondents within a period of two weeks from the date of receipt of a copy of the notice from the respondents. In the event of no response from the petitioner, the respondents are directed to destroy the harmful materials by following the procedures and thereafter, recover the expenditures from the petitioner by following the procedures. In any event, the entire exercise of destruction must be completed within a period of six weeks from the date of receipt of a copy of this order.



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9. With the above directions, the writ petition stands disposed of. No

costs. Consequently, connected miscellaneous petitions are closed.

28.04.2023

Index : Yes

Speaking order

Neutral Citation: Yes

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To

The Designated Officer,
Food Safety and Drug Administration
Office of Deputy Director of Health Services,
No.54/5, Assoori Street,
Tiruvallur District, Tiruvallur – 602 001.



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S.M.SUBRAMANIAM, J.

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28.04.2023