



W.P. (MD) No. 204 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. (MD) No. 204 of 2023

M/s. Nila Logistics LLP,
Through its Managing Director,
Authorised Signatory,
S.Shanmugaraj, (Aged 40),
S/o.Sivalingam,
5/582/26, Nathaji Nagar,
2nd Street, Tuticorin-628 002.

... Petitioner

-VS-

1.The Commissioner of Customs,
Tuticorin Port Customs Office,
New Harbour Estate,
Beach Road, Tuticorin.

2.The Assistant Commissioner of Customs,
Tuticorin Port Customs Office,
New Harbour Estate,
Beach Road, Tuticorin.

3.M/s.Innovation Exports (Pvt) Ltd.,
1A/52, MKM Banu Garden,
Jotus Block, Sivanthipatti Road,
Maharaja Nagar,
Tirunelveli-627 001.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the first respondent to permit the Petitioner's Vessel to reland with the cargo of 3500 MTS of Rock Boulders



vide Bill of Lading No.028/NILA/2022 loaded in 'TB.SG VICTORY' and with a Barge 'OLYMPIC SEBUKU' to Tuticorin Port, Tuticorin, Tuticorin District, Tamil Nadu, India and to unload the same at a Customs site specified by the first respondent.

For Petitioner : Mr. KA.Raamakrishnan
For R1 and R2 : Mr. N.Dilipkumar,
Senior Standing Counsel
For R3 : Mr. L.Siva

ORDER

Heard Mr. KA.Raamakrishnan, Learned Counsel for the Petitioner and Mr. N.Dilipkumar, Learned Senior Standing Counsel for the First and Second Respondents and Mr. L.Siva, Learned Counsel for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed for directing the First Respondent to permit the Petitioner's Vessel to reland with the cargo of 3500 MTS of Rock Boulders vide Bill of Lading No.028/NILA/2022 loaded in 'TB.SG VICTORY' and with a Barge 'OLYMPIC SEBUKU' to Tuticorin Port, Tuticorin, Tuticorin District, Tamil Nadu, India and to unload the same at a Customs site specified by the First Respondent, in respect of which the Petitioner had made a representation dated 26.12.2022 to the First Respondent.



3. It has been brought to notice that by proceedings in C.No.VIII/48/09/2020-Cus Pol, dated 11.01.2023, the Joint Commissioner, Office of the Commissioner of Customs, Custom House, New Harbour Estate, Thoothukudi has passed the following order:

“As per Section 30 of Customs Act, 1962 and Regulation 4 of Sea Cargo Manifest and Transhipment Regulation, 2018 an authorised sea carrier carrying imported goods, export goods or coastel goods, shall deliver the arrival manifest before arrival of the vessel whereas the general declaration and cargo declaration shall be delivered before the departure of the vessel from last port of call and the rest of the arrival manifest shall be delivered before arrival of the vessel.

2. *As per Section 46 of the Customs Act, 1962, the importer of any goods, other than goods intended for transit or transhipment, shall make entry thereof by presenting electronically on the customs automated system to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed. As per the Customs Act, 1962, goods can be cleared either for home consumption or warehouse as such there is no provision to keep goods under Customs' custody.*

3. *Since, Steamer Agent has not filed the Import General Manifest (Arrival Manifest) for the Tug-SG VICTORY and Barge-*



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OLYMPIC SUBUKU (as mentioned in above said letter), question of grant of permission for landing of the said cargo at Tuticorin Port does not arises.

4. *As far as the request for loading cargo with on board cargo for next voyage is concerned, on board cargo shall be declared as “same bottom cargo” in the Import General Manifest and the cargo for the next voyage can be loaded considering the capacity of vessel and the safety of the cargo.”*

In view of the aforesaid action taken on the representation made by the Petitioner, nothing remains for further consideration in the Writ Petition, but it would not preclude the Petitioner, if it still has any grievance, from working out its remedies before the proper forum in the manner recognized by law.

In fine, the Writ Petition is disposed with the aforesaid observation. No costs.

23.01.2023

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NCC : Yes/No
Index: Yes/No

Note: Issue order copy by 06.02.2023.



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WEB COPY

To

- 1.The Commissioner of Customs,
Tuticorin Port Customs Office,
New Harbour Estate,
Beach Road, Tuticorin.
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P.D. AUDIKESAVALU, J.

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