



WEB COPY



W.P.No.1363 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.1363 of 2024 and W.M.P.No.1391 of 2024

M/s. Successmind Marketing (P) Ltd.
Through its Authorized Signatory,
Mr. Sameer Ahmed Chandiwalla.

... Petitioner

Versus

- 1.Union of India,
Through Secretary, Department of Revenue,
Ministry of Finance,
Room No.48C, North Block,
New Delhi – 11001, India.
- 2.Principal Commissioner of Customs,
Office of the Commissioner of Customs,
Chennai-II (Import),
Chenna Custom House,
60, Rajaji Salai,
Chennai – 600 001.
- 3.Assistant Commissioner of Customs,
Chennai Custom House,
60, Rajaji Salai,
Chennai – 600 001.
- 4.Assistant Commissioner of Customs,
Special Intelligence and Investigation Branch,
Chennai Custom House,
60, Rajaji Salai, Chennai – 600 001.



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5. Custom House Broker,
M/s. Skyline Logistics Service,
Old No.225, New No.192,
First Floor, Linghi Chetty Street,
Chennai – 600 001.

6. Deputy Commissioner of Customs,
M/s. Continental Warehousing Corporation (Nhava Seva),
Container Freight Stations,
Kanakan Chatram,
Ponnammanmedu,
Chennai – 600 103.

7. Manager,
M/s. Continental Warehousing Corporation (Nhava Seva),
Container Freight Stations,
Kanakan Chatram,
Ponnammanmedu,
Chennai – 600 103.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Mandamus, directing the respondents to permit the release of 2091 bags/104000 Kgs of sodium carbonate (Sajji Khar) under Bill of Entry No.77574409 on a provisional assessment basis at the declared value of USD 46,800/- on furnishing a personal bond.

For Petitioner : Mr. Arun C. Mohan

For R1 to R4 & R6: Mr. K. S. Ramaswamy, Senior Standing Counsel.

For R5 : Mr. E. Ramesh

ORDER



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The petitioner seeks a direction to permit the release of 2091 bags of sodium carbonate, which were imported under bill of entry No. 7757409, on a provisional assessment basis.

2. The petitioner is engaged in the business of trading of food items. The petitioner states that it purchased 2091 bags of sodium carbonate from M/s. Cosmic Intercontinental DMCC, which is an entity based in the United Arab Emirates. The seller dispatched the consignment of goods under bill of lading dated 02.09.2023 and commercial invoice dated 04.09.2023. A “certificate of origin (CoO)” was issued by the Dubai Chamber of Commerce and Industry (DCCI), specifying the country of origin as Afghanistan. Upon the imported goods arriving at the Chennai Port, the customs authority refused to release the goods. After applying for the provisional release of such goods, the present writ petition was filed.

3. Learned counsel for the petitioner submitted that the petitioner imported sodium carbonate. By further submitting that such goods are not



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prohibited goods, learned counsel submits that the customs authorities refused to release the goods without providing proper reason. With reference to the counter of the respondents, he submits that the goods have been detained by stating that such goods may be arecanuts. As regards the Directorate of Revenue Intelligence (*DRI*) investigation, he submits that no formal communications were received by the petitioner with regard to the investigation by the DRI. He submits that the goods are in the custody of the sixth respondent.

4. Learned counsel for respondents 1 to 4 & 6 submits that the goods were not released on account of a pending DRI investigation. By referring to paragraphs 4 & 6 of the counter affidavit, he submits that the fifth respondent, which is the customs house broker, is aware of the DRI investigation.

5. Learned counsel for the fifth respondent submits that the DRI officials had summoned the fifth respondent for an enquiry but that no official communication was received from the DRI either by the fifth



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respondent or by the petitioner.

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6. Section 110 A of the Customs Act, 1962, enables the provisional release of any goods subject to the execution of a bond and provision of security, if warranted, as determined by the adjudicating officer. In this case, the petitioner asserts that the goods are sodium carbonate and such goods are not prohibited. Although the customs authority asserted that there is a DRI investigation, nothing was placed on record in this regard. In these circumstances, it is just and necessary that the customs authority considers and disposes of the petitioner's application for provisional release in accordance with law.

7. For reasons set out above, W.P.No.1363 of 2024 is disposed of by directing the second and third respondents to consider the petitioner's application for provisional release in accordance with Section 110A of the Customs Act and relevant notifications in such regard. The said application shall be considered and disposed of within a maximum period of 30 days from the date of receipt of a copy of this order after providing a reasonable opportunity to the petitioner. There shall be no order as to



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costs. Consequently, the connected miscellaneous petition is closed.

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Index : No

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Neutral Case Citation: No

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To

- 1.The Secretary, Department of Revenue,
Union of India,
Ministry of Finance,
Room No.48C, North Block,
New Delhi – 11001, India.
- 2.The Principal Commissioner of Customs,
Office of the Commissioner of Customs,
Chennai-II (Import),
Chenna Custom House,
60, Rajaji Salai,
Chennai – 600 001.
- 3.The Assistant Commissioner of Customs,
Chennai Custom House,
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Chennai – 600 001.
- 4.The Assistant Commissioner of Customs,
Special Intelligence and Investigation Branch,
Chennai Custom House,
60, Rajaji Salai, Chennai – 600 001.



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5. The Custom House Broker,
M/s. Skyline Logistics Service,
Old No.225, New No.192,
First Floor, Linghi Chetty Street,
Chennai – 600 001.

6. The Deputy Commissioner of Customs,
M/s. Continental Warehousing Corporation (Nhava Seva),
Container Freight Stations,
Kanakan Chatram,
Ponniammanmedu,
Chennai – 600 103.

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SENTHILKUMAR RAMAMOORTHY,J.

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