



W.P.(MD).No.13571 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2024

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD).No.13571 of 2024

M/s.Kannimar Fabrics,
Represented by its Proprietor,
Shankar

...Petitioner

Vs

- 1.The Commissioner of Customs,
Customs House, New Harbour Estate,
Tuticorin – 628 004.
- 2.The Superintendent of Customs,
Customs House New Harbour Estate,
Tuticorin – 628 004.
- 3.M/s.Goodrich Maritime Private Limited,
No.57/7, Seelan Dozen,
Muniasampuram 2nd Street,
Tuticorin – 628 003.
- 4.M/s.Vilson Container Freight Station,
3/2B, Harbour Express Highway Road,
Tuticorin – 628 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Mandamus, directing the respondents 1 and 2 herein to ensure the demurrage waiver certificate



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dated 20.05.2024 issued by the first respondent is complied by the third and fourth respondents and consequently direct the third and fourth respondents to release the goods covered by the bill of entry No.2960953 dated 10.04.2024 is released to the petitioner without imposition of any detention charges.

For Petitioner : Mr.S.Muthumalai Raja

For R-1 and R-2 : Mr.R.Nandha Kumar
Senior Standing Counsel

For R-3 : Mr.Lloyd and Johnson

ORDER

Heard Mr.S.Muthumalai Raja, learned counsel for the petitioner, Mr.R.Nandha Kumar, learned Senior Standing Counsel for the respondents 1 and 2 and Mr.Lloyd and Johnson, learned counsel for the 3rd respondent.

2. This Writ Petition has been filed praying for a Mandamus, directing the respondents 1 and 2 herein to ensure the demuorage waiver certificate dated 20.05.2024 issued by the first respondent is complied with by the third and fourth respondents and consequently to direct the third and fourth respondents to release the goods covered by the bill of



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entry No. 2960953 dated 10.04.2024 is released to the petitioner without imposition of any detention charges.

3. It is the case of the petitioner that the petitioner had imported cotton rags through the third and fourth respondents which was subject to detention by the Customs Department and an order of release was passed by the Customs Department on 08.05.2024 which also entitles not to claim demurrage charges for a period of 60 days from the date of order of release. However, the third and fourth respondents are refusing to release the goods in favour of the petitioner. Hence, he had approached this Court to extend the benefit of demurrage waiver to the petitioner and also direct the third and fourth respondents to release the goods which had been released by the department.

4. The learned Senior Standing Counsel appearing for the respondents 1 and 2 would submit that as per the rules, for the goods that had been detained by the Department for verification, if an order of release had been made, then for the further period of 60 days, no demurrage charges would be levied and for the period after 60 days, demurrage charges would be levied and either the petitioner or the



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respondents 3 and 4 are liable to pay such demurrage charges to the Department.

5. The learned counsel for the third respondent on the other hand would contend that goods could be released to the petitioner only on fulfillment of terms and contract that had been agreed between the parties and this Writ Petition cannot be said to be maintainable for relief against the third and fourth respondents for release of goods covered under the bill of entry. He would further submit that if for any relief, the petitioner would have to only exhaust alternate remedy available to him and therefore, he prays this Court not to entertain this Writ Petition.

6. Admittedly, the detained goods had been released by the Customs Department and in view of the dispute between the petitioner and the respondents 3 and 4, arising out of contract for carriage agency, the goods were not released. This Court, under Article 226 of the Constitution, cannot decide the dispute between two private parties and direct the release of goods which has already been released by the Customs Department. However, the petitioner is granted liberty to avail civil remedy available to him.



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7. Accordingly, this Writ Petition stands dismissed with the above liberty. There shall be no order as to costs.

27.11.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

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- 2.The Superintendent of Customs,
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- 3.M/s.Goodrich Maritime Private Limited,
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Nsr

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