



W.P.(MD) No.14259 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.14259 of 2024

M/S.Transmarine Cargo Services Pvt., Ltd.,
represented by its Managing Director,
Shibu John

... Petitioner

/vs./

1.The Assistant Commissioner of Customs (Import),
Custom House,
Port Area,
Tuticorin 628 004.

2.M/S.St.Johns Freight Systems Ltd.,
Container Freight Station,
C-98, Sipcot Industrial Complex,
Harbour Express Road,
Tuticorin 628 008.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent No.1 to issue a No Objection Certificate (NOC) for the release of the petitioner's container bearing No.ASNT6001365 and further directing the respondent No.1 to instruct the respondent No.2 to permit the petitioner to take custody of the container bearing



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WEB COPY No.ASNT6001365 within a reasonable time frame.

For Petitioner : Mr.Hari Radhakrishnan

For Respondents : Mr.N.Dilip Kumar
Senior Standing Counsel

ORDER

Heard Mr.Hari Radhakrishnan, learned counsel for the petitioner and Mr.N.Dilip Kumar, learned Senior Standing Counsel for the respondents.

2.The petitioner has filed this Writ Petition for a Mandamus to direct the first respondent to issue 'No Objection Certificate' for the release of the petitioner's container bearing No.ASNT6001365 and to direct the first respondent to instruct the second respondent to permit the petitioner to take custody of the container bearing No.ASNT6001365.

3.The petitioner is the owner of the container, in which goods were imported by the importer, namely Sai Import and Export represented by its Proprietrix, Mrs.Jayanthi Chelladurai.



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4.It is the case of the petitioner that the importer, namely Sai Import and Export failed to notify the Bill of Lading dated 26.10.2023 to clear the imported Cargo after filing the Bill of Entry No.8545115 dated 31.10.2023.

5.The learned counsel for the petitioner would submit that since the importer has failed to come forward to take delivery of the Cargo, the imported Cargo is to be treated as 'unclaimed Cargo' under Section 48 of the Customs Act, 1962 and therefore, the petitioner should be entitled to take delivery of the container after the Customs Department auctions the imported Cargo. It is submitted that the petitioner has sent several representations, last of which is dated 12.04.2024.

6.On the other hand, the learned Senior Standing Counsel for the respondents would submit that there appears to be an *inter se* dispute between the petitioner and the said importer, namely Sai Import and Export represented by its Proprietrix, Mrs.Jayanthi Chelladurai and therefore, there has been a delay in allowing the petitioner to retrieve the container. It is further submitted that the orders have been passed for de-stuffing the cargo from the container for the



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petitioner to take delivery of the container.

7.In this connection, the learned Senior Standing Counsel for the respondent has produced a copy of the Gate-pass issued in the name of the importer and to importer's, Custom House Agent, namely Sasha Shipping Private Limited on 08.01.2024.

8.Having considered the submissions made by the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents, I am inclined to dispose of this writ petition at the time of admission after hearing the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents and after dispensing with the counter by directing the first respondent to consider the petitioner's representation dated 12.04.2024 for removal of container without the Cargo from the custody of the second respondent.

9.It is needless to state that before passing such order, the petitioner, the importer, namely Sai Import and Export represented by its Proprietrix, Mrs.Jayanthi Chelladurai and the second respondent herein shall be heard. It is expected that the entire exercise will be completed by the first respondent as



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expeditiously as possible, preferably within a period of 4 weeks from the date of receipt of a copy of this order.

10. With the above directions, the Writ Petition stands disposed of. No costs.

Index : Yes / No
Internet : Yes / No
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C.SARAVANAN, J.

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