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WP.No.6549 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.04.2025**

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

WP.No. 6549 of 2025

and

W.M.P.Nos 7212 & 7214 of 2025

M/s. Askar Sea Shel lMerchant
3/473-1, Loorthamalpuram,
Tuticorin - 628 001

...Petitioner

Vs

1. The Principal Chief Conservator of Forests
and Chief Wildlife Warden,
Forest Headquarters,
Guindy- Velachery Main Road,
Guindy,
Chennai - 600 032.
2. The Authorized Officer,
The Wildlife Crime Control Bureau,
Ministry of Wildlife,
Rajai Bhawan, Besant Nagar,
Chennai - 600 090.
3. The Deputy Commissioner of Customs (Imports)
Customs House, New Harbour Estate,
Tuticorin - 628 004.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorarified Mandamus to call for the records, pertaining to
C.No.WL1/32448/2024 dated 24.01.2025 passed by the 1st respondent and to



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quash the same insofar as the said order passed by the 1st respondent is without jurisdiction, authority of law and in clear violation of principles of natural justice and a consequent direction to the 4th respondent to release the goods, covered under the Bill of Entry No.7095539 dated 07.12.2024.

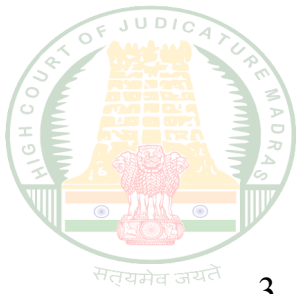
For Petitioner : Mr.S.Baskaran

For Respondents : Mr.T.Sreenivasan
Spl.Government Pleader (Forest) for R1
Dr.G.Babu,
CGSSC for R2
Mr.A.P.Srinivas
Standing Counsel for R3

ORDER

This writ petition has been filed aggrieved by the impugned order passed by the 1st respondent refusing to grant No Objection Certificate for clearance of the petitioner's containers imported under Bill of Entry No.7095539 dated 07.12.2024.

2. The petitioner has challenged the impugned order on the ground that the said order has been passed without jurisdiction and in violation of principles of natural justice. The petitioner has sought for a consequential direction to the 3rd respondent to release the seized goods.



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3. The petitioner has imported Conch Shell under Bill of Entry No.7095539 dated 07.12.2024. According to the petitioner, despite the 3rd respondent having seized the goods and the customs duty having already been paid, the consignment of the petitioner was referred to the 2nd respondent. According to the petitioner, the 2nd respondent had thereafter, referred the same to the 1st respondent for further clarification with regard to the imported goods of the petitioner. According to the petitioner, as per the Customs Tariff Act, there is no prohibition for importing the aforesaid goods and as per the import policy, goods are freely importable. The petitioner also claims that the goods were imported under the Indo-Srilanka Free Trade Agreement (ISFTA) dated 02.12.2024. According to the petitioner, by total non-application of mind to the aforesaid facts, the 1st respondent has passed the impugned order dated 24.01.2025 referred to supra.

4. A counter affidavit has been filed by the 1st respondent who has issued the impugned order and in paragraph Nos.6 and 7 it is stated that the goods imported by the petitioner are prohibited goods under the Wildlife (Protection) Act, 1972 as it falls under Schedule II Species as per Wild Life (Protection) Act, 1972 . According to them, only due to the same, the impugned



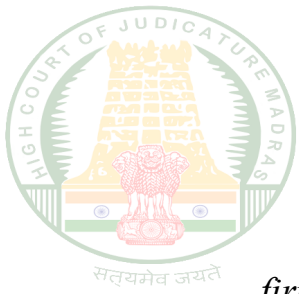
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order came to be passed. Paragraph Nos.6 & 7 of the counter affidavit filed by the 1st respondent are extracted hereunder:

“ 6. It is respectfully submitted that in Tuticorin VOC Port import and export of cargo and its clearance is through ICEGATE, a single window system. The Wildlife Crime Control Bureau (WCCB) is a statutory multi-disciplinary body established by the Government of India under the Ministry of Environment Forests and climate change (MoEF&CC). Director of MoEF&CC is the CITES (Convention on International Trade in Endangered Species) Management Authority and Regional Deputy Directors are designated Assistant CITES Management Authorities. In the capacity of which WCCB Regional offices advise Customs authorities in the inspection of consignments of flora and fauna as per the provisions of Wild Life (Protection) Act, 1972 CITES and EXIM Policy governing such an item. Constitution of WCCB is as per section 38 Y and its powers and functions are mentioned u/s 38Z of the Act.

7. It is respectfully submitted that WCCB regional offices are connected to this ICEGATE and through this system, trade in flora & fauna through designated ports are monitored. Through this ICEGATE/SWIFT, B.E.No.7095539 Dated 07.12.24 was marked to WCCB and item imported was seashell Pleuroploca trapezium through Tuticorin port by the



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firm M/s Askar seashells, Tuticorin. Since these seashells are listed under Schedule II of the Wildlife (Protection) Act, 1972, samples were analysed by WCCB and the identity of it being a Schedule II Species as per Wild Life (Protection) Act 1972 has been confirmed. The WCCB has forwarded a letter to Principal Chief Conservator of Forest and also to the Superintendent of Customs informing him the same via No.5EXIM/WCCB-SR/2024/751-53 dated 16.12.2024. Based on the letter from WCCB, the provisions of Wildlife Protection Act and also taking the representations of the petitioner into consideration, the 1st respondent arrived at the decision to return the consignment to the country of origin.”

5. It is also contended by the 1st respondent that the Wild Life Claim Control Bureau (WCCB) through their letter dated 16.12.2024 has also confirmed that the goods imported by the petitioner are prohibited goods. Even though in the counter affidavit filed before this Court, both the 1st respondent as well as the 2nd respondent refer to WCCB letter dated 16.12.2024 and Schedule II of the Wild Life (Protection) Act 1972, but in the impugned order, the 1st respondent does not refer to the same for establishing that the goods are prohibited goods. Even though in the counter filed before this Court by the 1st respondent, it has been stated that personal hearing was afforded to the



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petitioner before passing the impugned order dated 24.01.2025, however, the same is not reflected in the impugned order dated 24.01.2025.

6. Primarily, the petitioner has challenged the impugned order on the ground of violation of principles of natural justice. They have relied upon the following documents to substantiate their case that the goods imported by the petitioner are freely importable and are not prohibited goods.

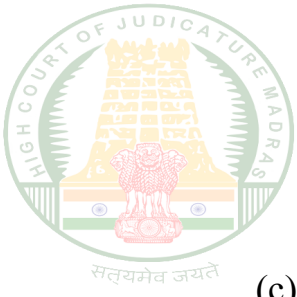
(a) Customs Tariff Act Heading Number 05080090, the goods imported under the Indo-Srilanka Free Trade Agreement (ISFTA) dated 02.12.2024.

(b) Certificate of Origin dated 03.12.2024.

7. The petitioner has also submitted the following documents:

(a) International Zoo Sanitary Certificate for Products of Animal Original Destined for use in Animal Feeding or for Industrial or Pharmaceutical Use" dated 03.12.2024 issued by the Department of Animal Production & Health, Ministry of Animal Quarantine, Srilanka.

(b) Letter of No Objection dated 11.11.2024 issued by Department of Fisheries & Aquatic Resources, Srilanka to the overseas exporter to transport and keep in possession of Pleuroploca Trapezium.(Qty.20,000kgs)



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(c) Identification Certificate of the Conch Shell issued by the Director General, National Aquatic Resources Research & Development Agency, Srilanka.

(d) Fumigation Certificate dated 03.12.2024 issued by SML Eco Pest Control, Member of Pest Managers Association of Srilanka

(e) ISFTA certificate

8. The reasons why the documents relied upon by the petitioner before this Court, referred to supra, are irrelevant for the purpose of granting no objection are not disclosed in the impugned order.

9. For the foregoing reasons, since the grant of personal hearing has not been reflected in the impugned order and the impugned order is a non-speaking order with regard to the contentions of the petitioner that have been raised in the writ petition before this Court, this Court is of the considered view that the impugned order has been passed in violation of principles of natural justice. Therefore, the impugned order passed by the 1st respondent has to be quashed.

10. Accordingly, the impugned order passed by the 1st respondent dated



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24.01.2025 is quashed. The matter is remanded back to the 1st respondent for fresh consideration, after providing an opportunity of personal hearing to the petitioner and by granting permission to the petitioner to produce all supporting documents which have been placed before this Court for the 1st respondent's consideration. The 1st respondent, after affording one personal hearing to the petitioner and after considering the documents produced by the petitioner in support of the petitioner's case that the goods imported by the petitioner are freely importable, shall pass final orders on merits and in accordance with law and decide as to whether No Objection Certificate can be issued or not, within a period of six weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition is disposed of No costs. Consequently, connected miscellaneous petitions are closed.

25.04.2025

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Note: Issue order copy on 29.04.2025

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