



W.P.Nos.18855 & 18858 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 08.01.2025

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.Nos.18855 & 18858 of 2024
and W.M.P.Nos.20688 & 20694 of 2024

M/S SUCCESSMIND MARKETING (P) LTD .,
THROUGH ITS AUTHORIZED SIGNATORY,
MR.SAMEER AHMED CHANDIWALA ,
KHASRA NO.1238,
PRAGNA JALALABAD TEHSIL, UNNAMED ROAD,
MILESTONE INSTITUTE OF PROFESSIONAL STUDIES, VILLAGE MORTA,
GHAZIABAD, UTTAR PRADESH- 201 020.

... Petitioner in both W.P's

Vs.

1. UNION OF INDIA
THROUGH SECRETARY, DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE,
ROOM NO.48C, NORTH BLOCK,
NEW DELHI 110 001, INDIA.

2. PRINCIPAL COMMISSIONER OF CUSTOMS,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
CHENNAI- II (IMPORT),
CHENNAI CUSTOM HOUSE,



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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.

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,
PONNIAMMANMEDU, CHENNAI 600 103.

7. MANAGER
M/S.CONTINENTAL WAREHOUSING CORPORATION (NHAVA SEVA),
CONTAINER FREIGHT STATIONS,
KANAKAN CHATRAM,
PONNIAMMANMEDU, CHENNAI 600 103.

8. DIRECTORATE OF REVENUE INTELLIGENCE



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CHENNAI ZONE UNIT,
27 G.N. CHETTY ROAD,
T.NAGAR, CHENNAI- 17.

...Respondents in both W.P's

PRAYER in W.P.No.18855 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondents to the release of 2091 bags /104000 KGs of Sodium Carbonate (Sajji Khar) under Bill of Entry No.7757409 on a provisional assessment basis at the declared value of USD 46,800/- as the petitioner has already paid the customs duty as per the customs Tariff act, 1975.

PRAYER in W.P.No.18858 of 2024: Writ Petition filed under Article 226 of the Constitution of India, directing the Respondent No.4 to issue letter of 'NOC' for releasing of Goods as well as 'Detention and Demurrage Free Certificate' in order to waive of shipping line and CFS Charges in terms of Regulation 6(1)(I) of the Handling of Cargo in Customs Area Regulation, 2009.

For Petitioner	: Mr.P.V.Balasubramaniam Senior Advocate for Mr.Arun C.Mohan
For R1 to 4 and 6	: Mr.K.S.Ramaswamy Senior Standing Counsel
For R5	: No appearance
For R7	: Not ready in notice
For R8	: Mr.Rajnish Pathiyil Senior Panel Counsel



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COMMON ORDER

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The present Writ Petitions are filed praying for Writ of Mandamus directing the respondents to release 2091 bags /104000 KGs of Sodium Carbonate (Sajji Khar) under Bill of Entry No.7757409 on a provisional assessment basis at the declared value of USD 46,800/- as the petitioner has already paid the customs duty as per the customs Tariff Act, 1975 and also direct the respondent No.4 to issue letter of 'NOC' for release of such Goods as well as issuance of 'Detention and Demurrage Free Certificate' in order to waive of shipping line and CFS Charges in terms of Regulation 6(1)(I) of the Handling of Cargo in Customs Area Regulation, 2009.

2. Mr.K.S.Ramaswamy, learned Senior Standing Counsel takes notice on behalf of the respondents 1 to 4 and 6 and Mr.Rajnish Pathiyil, learned Senior Panel Counsel takes notice on behalf of the eighth respondent. By consent of the parties, the main Writ Petition is taken up for disposal at the admission stage itself.

3. It is submitted that the petitioner is primarily engaged in the business of trading of food items and other related products and is registered under the



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Goods and Service Act, 2017. The petitioner had paid the appropriate customs duty. However, the goods were originally detained on the premise that there was misdeclaration by the petitioner of import of 'Sodium Carbonate' as 'Arecanuts'. It is also submitted that the detention was only in view of suspicion of alleged mis-declaration of 'Sodium Carbonate' as 'Arecanuts'.

4. Mr.Rajnish Pathiyil, learned Senior Panel Counsel for the 8th respondent/DRI submitted that no case is registered by the Directorate of Revenue Intelligence.

5. It is also submitted by the learned Senior Advocate for the petitioner that there was an earlier Writ Petition in W.P.No.1363 of 2024 dated 25.04.2024, wherein, this Court was pleased to direct the second and third respondents to consider the petitioner's application for provisional release in accordance with Section 110A of the Customs Act, within a period of 30 days from the date of receipt of a copy of this order after providing a reasonable opportunity to the petitioner. Despite the above direction, the respondent/authority not yet released the consignment.



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6. Mr.K.S.Ramaswamy, learned Senior Standing counsel for the respondents 1 to 4 and 6 submitted that the goods have been detained only on the ground that "No Objection Certificate" has not been produced by the petitioner from the Assistant Drug Controller.

7. It is submitted by the learned Senior Advocate for the petitioner that unless and until access is provided to the goods, the Assistant Drug Controller may not be in a position to inspect and issue the requisite certificate, to which, the learned Senior Standing Counsel for the respondents 1 to 4 & 6 on instructions would submit that they would provide access to the Assistant Drug Controller to enable him to inspect and issue the certificate within 48 hours of such request being made by the petitioner.

8. It is also submitted by the learned Senior Advocate for the petitioner that the petitioner made a request by way of a representation for issuance of "NOC" & "Detention and Demurrage Free Certificate" towards waiver of shipping line and CFS charges in terms of Regulation 6(1)(I) of the Handling of Cargo in Customs Area Regulation, 2009, on 10.05.2024 before the Deputy Commissioner of Customs (SIIB). The learned Senior Standing Counsel for the respondents would submit that the appropriate authority would consider such



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representation and pass orders on merits.

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9. In view thereof, it is open to the petitioner to submit an additional representation for issuance of "Detention and Demurrage Free Certificate". If any, such representation is made, the same would be considered by the respondents and orders shall be passed on merits and in accordance with law with regard to "Detention and Demurrage Free Certificate", within a period of two weeks from the date of receipt of a copy of this order, after affording the petitioner, a reasonable opportunity of hearing.

10. It is open to the petitioner to make a request for grant of access to the Assistant Drug Controller to inspect the consignment/goods for issuance of aforesaid certificate. If such request is made, the appropriate authority would provide access to the Assistant Drug Controller to inspect the consignment/goods within 48 hours of such request. On such examination being made by the Assistant Drug Controller and if "No Objection Certificate" is issued by the Assistant Drug Controller. It is open to the petitioner to place such certificate before the appropriate authority in support of their request for release of good detained, which would then be considered and appropriate orders would be passed in accordance with law, after affording the petitioner, a reasonable



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opportunity of hearing.

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11. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

08.01.2025

Index : Yes / No
Internet : Yes/ No
jd

To

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MOHAMMED SHAFFIQ, J.

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