



W.P.No.25774 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.25774 of 2024

and W.M.P.No.28150 of 2024

M/s.Bio-Rad Laboratories (India) Pvt.Ltd.,
Door No.116, Devaneri Village Road,
Chennai – 600 067, Represented by
Mr.Rohan Jhusiwala,
Associate General Counsel

...Petitioner

Vs

1.Joint Commissioner, Government of India,
Animal Quarantine & Certification Services
(Southern Region), Department of Animal
Husbandry & Dairying, Ministry of Fisheries,
Animal Husbandry & Dairying, No.115,
Velachery Main Road, Pallikaranai,
Chennai – 600 100.

2.Assistant Commissioner of Customs (Import)
Air Cargo Complex, Meenambakkam,
Chennai – 600 027.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in File No.1064/2024/AQCS(SR)/119 dated 08.04.2024 passed by the First Respondent, quash the same and direct



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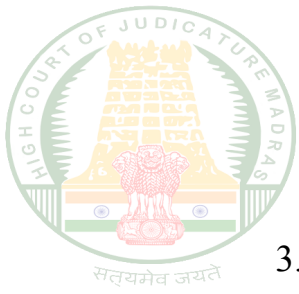
the second respondent to immediately release the shipment/consignment imported by the petitioner company vide Bill of Entry dated 30.03.2024.

For Petitioner : Mr.J.Shankarraman
For Respondents : Mr.V.Chandrasekaran
Senior Panel Counsel (For R1)
Mr.K.S.Ramaswamy
Central Government
Standing Counsel (For R2)

ORDER

This writ petition has been filed, challenging the impugned order dated 08.04.2024 passed by the first respondent, under which the first respondent has held that the consignment of “Bovine Serum Albumin” Standard imported by the petitioner vide Bill of Entry No.2819568 dated 30.03.2024 should have been filed under ITCHS Code 30039031 and not under 35029000.

2. According to the first respondent, the livestock product (“Bovine Serum Albumin”) requires an Advance Sanitary Import Permit (SIP) issued by Government of India before import.



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3. By stating the aforesaid reasons, the first respondent has rejected the consignment of “Bovine Serum Albumin” standard imported by the petitioner through online portal in AQCS-ICS online portal and the first respondent has directed that the above mentioned consignment should be immediately deported back to the country of origin or destroyed at the petitioner's own cost, under intimation to the first respondent.

4. The petitioner has challenged the impugned order on the ground of violation of the principles of natural justice and also on the ground that the impugned order is a non-speaking order. According to the petitioner, the first respondent did not provide any opportunity of hearing to the petitioner and has not considered the contentions made by the petitioner, which have been reiterated in this writ petition. The petitioner has contended that the consignment of “Bovine Serum Albumin” standard imported by them falls only under ITCHS code 35029000 and not under 30039031, as contended by the first respondent.

5. The learned counsel for the petitioner drew the attention of this Court to the following documents/orders filed along with this writ petition.



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a) Ruling of Customs Authority for Advance Ruling dated 05.02.2024, wherein, according to the petitioner, it has been made clear that the consignment of “Bovine Serum Albumin” Standard imported by the petitioner would fall only under ITCHS Code 35029000.

b) The impugned order dated 08.04.2024, for the purpose of establishing that no opportunity of hearing was granted to the petitioner and the contentions of the petitioner that as per the ruling of Customs Authority for Advance Ruling dated 05.02.2024, the consignment of “Bovine Serum Albumin” Standard imported by the petitioner will only fall under ITCHS Code 35029000 has not been considered.

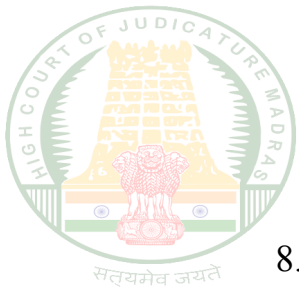
6. Relying upon the aforesaid documents/orders, the learned counsel for the petitioner would submit that before passing the impugned order, the petitioner was not afforded any opportunity of hearing and the contentions of the petitioner as raised earlier, which has also been reiterated through this writ petition have not been considered by the first respondent. The first respondent has come to a conclusion that the consignment of “Bovine Serum Albumin” Standard imported by the petitioner will only fall under ITCHS Code 30039031 and not under 35029000. However, on a *prima facie*



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consideration, this Court finds it is contrary to the Customs Authority for Advance Ruling order dated 05.02.2024. The learned counsel for the petitioner would also submit that it is only the Customs Department, who can classify under what classification any imported goods falls for the purpose of assessment of customs duty. Therefore, he would submit that the ruling of Customs Authority for Advance Ruling dated 05.02.2024 ought to have been applied for the purpose of classification of the consignment of “Bovine Serum Albumin” standard imported by the petitioner, which according to the petitioner will fall only under 35029000.

7. The learned counsel for the petitioner would submit that if the consignment of “Bovine Serum Albumin” standard imported by the petitioner falls under ITCHS Code 35029000, there is no requirement for production of Advance Sanitary Import Permit (SIP) as claimed by the first respondent in the impugned order. According to the learned counsel for the petitioner, by violating the principles of natural justice and through a non-speaking order, the first respondent has held that “Bovine Serum Albumin” Standard imported by the petitioner will fall under ITCHS Code 30039031.



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8. On the other hand, the learned Standing counsel for the first respondent as well as the learned Standing counsel for the second respondent reiterated the contents of the counter affidavit filed by the first respondent and second respondent respectively.

9. Further, the learned Standing counsels appearing for the respective respondents would submit that as early as on 09.06.2022 itself, the first respondent has informed the petitioner that the consignment of “Bovine Serum Albumin” standard, which the petitioner has imported falls only under ITCHS Code 30039031 and not under 35029000. Therefore, they would submit that the petitioner is aware that the consignment of “Bovine Serum Albumin” Standard imported by the petitioner falls under only ITCHS Code 30039031 and not under 35029000. Despite the same, the petitioner has once again made an attempt to approach the Customs Authorities by stating that the consignment of “Bovine Serum Albumin” will fall only under 35029000 and not under 30039031. For the submission made by the learned Standing counsels appearing for the respective respondents, the learned counsel for the petitioner would reiterate that for the purpose of classification of goods for assessing customs duty, it is only the Customs Department, who is the competent authority and not the first respondent.



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DISCUSSION

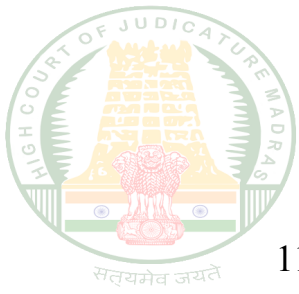
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10. Admittedly, the following contentions which have been raised in this writ petition have not been considered by the first respondent in the impugned order:

a) The applicability of the ruling of Customs Authority for Advance Ruling dated 05.02.2024 as discussed supra for the petitioner's case has not been considered in the impugned order by the first respondent.

b) Whether the ruling of Customs Authority for Advance Ruling dated 05.02.2024, which is in support of the petitioner's case or whether the order dated 08.04.2024 passed by the first respondent is binding has not been considered in the impugned order passed by the first respondent.

c) In the impugned order, there is no reference to any hearing afforded to the petitioner prior to the passing of the impugned order. When the petitioner has categorically contended that the consignment of “Bovine Serum Albumin” Standard imported by the petitioner will only fall under ITCHS Code 35029000, which contradicts the stand of the first respondent, necessarily an opportunity of hearing ought to have been afforded to the petitioner, which has not been given as seen from the impugned order passed by the first respondent.



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11. Though a non-speaking order with regard to the contentions of the petitioner, which has been reiterated by the petitioner in this writ petition, the first respondent has held that the consignment of “Bovine Serum Albumin” Standard imported by the petitioner vide the subject Bill of Entry dated 30.03.2024 has been rejected and the imported goods should be immediately be deported to the country of origin or destroyed at the petitioner's own cost under intimation to the first respondent. Being a order which drastically affects the right of the petitioner, the first respondent should have passed a speaking order after adhering to the principles of natural justice.

12. In case, the petitioner is able to establish after having been afforded an opportunity of hearing, that the consignment of “Bovine Serum Albumin” Standard imported by them has to be classified only under ITCHS Code 35029000, in which event, there is no requirement for them to produce an advance Sanitary Import Permit (SIP) issued by Government of India before import. Since the impugned order is a non-speaking order with regard to the contentions of the petitioner and since the impugned order is an order passed by violating the principles of natural justice, the impugned order has to be quashed and remanded back to the first respondent for fresh consideration on merits and in accordance with law after giving due



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consideration to the petitioner's contentions raised in this writ petition and after affording personal hearing to the petitioner.

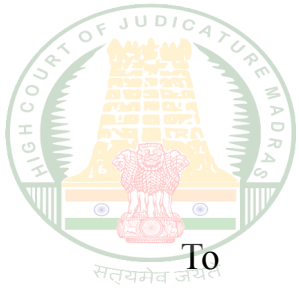
13. For the foregoing reasons, the impugned order dated 08.04.2024 passed by the first respondent is hereby quashed and the matter is remanded back to the first respondent for fresh consideration on merits and in accordance with law. The first respondent after affording one personal hearing to the petitioner, shall pass final orders on merits and in accordance with law after giving due consideration to the contentions raised by the petitioner in this writ petition within a period of eight weeks from the date of receipt of a copy of this order.

14. With the aforesaid directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

13.06.2025

Index : Yes/No
Neutral Citation : Yes/No
Speaking order / Non-speaking order

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To

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Animal Quarantine & Certification Services
(Southern Region), Department of Animal
Husbandry & Dairying, Ministry of Fisheries,
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ABDUL QUDDHOSE, J.

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