

(2014) 11 MAD CK 0123

In the Madras High Court

Case No : Writ Petition No. 25934 of 2012 and M.P. No. 1 of 2012

MSC Agency (India) Pvt. Ltd.

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 19-11-2014

Acts Referred:

Citation : (2015) 319 ELT 666

Hon'ble Judges : T.S. Sivagnanam, J.

Bench : Single Bench

Advocate : V. Aravamudan, for the Appellant; N. Senthilkumar, S. John for Fox Mandal and Associates, S. Raghunathan, Shivakumar, Suresh and Sathish Sundar, for the Respondent

Judgement

T.S. Sivagnanam, J.?In this writ petition, the petitioner seeks a writ of Mandamus, to direct the respondents to forthwith release and return 202 containers morefully mentioned in schedule A to this petition, to the petitioner by taking all necessary steps in this regard and without claiming any charges from the petitioner. The petitioner is the private limited company incorporated under the Companies Act and is also agent of Mediterranean Shipping Company, SA, which carries on business at container owners/carriers and other shipping related businesses from its principal place at Geneva. The petitioner in the course of their business leased the containers for stuffing cargo to various exporters across the world and thereafter, under a contract, carried the same from different parts of the world and delivered the containers along with the cargo at Chennai Port in accordance with said contract. After discharging the containers, the petitioner moved the containers to various container freight stations. Thereafter, the importers/consignees, who are entitled to take delivery of the cargo, should arrange for de-stuffing of cargo, after paying all necessary duties and clear the goods, failing which, the container freight station are required to seize the cargo within the container and bring the cargo to sale after de-stuffing the same from the container and after obtaining permission from the authority concerned.

2. According to the petitioner, the subject matter of the present writ petition i.e., 202 containers, are lying at the container freight station yards of respondents 3 to 14 and the same remain uncleared/abandoned by the respective consignees. In my considered view, the same is not subject matter of adjudication in this writ petition.

3. Now, the petitioner has come forward with this writ petition seeking a direction to the official respondents to release the containers in question to the petitioners, by allowing the container field stations to de-stuff the cargo from the containers and bring the same for sale without insisting for any payment from the petitioner.

4. The writ petition was admitted on 24-9-2012 and notice was ordered on the respondents.

5. The learned counsel for the respondents 1 and 2 submitted that the issue involved herein has to be considered by the respondents in accordance with law.

6. The learned counsel for the petitioner would submit that the petitioner has submitted a representation to the second respondent on 9-8-2012 and the petitioner being satisfied, if a decision is taken by the second respondent on the petitioner's representation, since the containers are lying in the container field stations viz., respondents 3 to 14 from 2008 onwards.

7. In the light of the above submissions, without going into the merits of the case, there will be a direction to the second respondent to consider the petitioner's representation dated 9-8-2012 and pass orders on merits and in accordance with law, after issuing notice to the petitioner as well as the respondents 3 to 14, within a period of three months from the date of receipt of the copy of this order. It is made clear that this Court neither adjudicates the claim of the petitioner nor the claim of the respondents 2 to 14. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.