
(2019) 05 KL CK 0068

In the High Court Of Kerala

Case No : Writ Petition (Civil) No. 14290 Of 2019

M/S.Imelt Extrusions Pvt Ltd

APPELLANT

Vs

Commissioner Of Customs

RESPONDENT

Date of Decision : 30-05-2019

Acts Referred:

Citation : (2019) 05 KL CK 0068

Hon'ble Judges : S.V.Bhatti, J

Bench : Single Bench

Advocate : P.A.Augustian, Cimy Varghese, Linda.M.J., M.A.Baby

Judgement

1. Heard Mr. P.A Augustian, the counsel for the petitioner and Mr. Thomas Mathew Nellimoottil the learned Standing Counsel for the respondent.

2. The petitioner challenges the legality of Exts. P4,P6,P8 and P10 Bills of entries and also prays for a direction to release the goods imported under Exts.P4,P6,P8 and P10. The petitioner complains that the respondent is not looking into the subject consignments which are fully compliant with law, but by referring to a few circumstances which the petitioner does not have anything to do the subject imported goods is lying unattended at the yard. It is at the back of the mind of respondents that gold was imported with wrong description of goods. The petitioner notwithstanding delay does not seek for the release of the goods covered by Exts. P4,P6,P8 and P10. The limited prayer is that the respondent if discharges its statutory function and passes orders expeditiously on the goods covered under bills of entries Exts. P4,P6,P8 and P10, the petitioner is satisfied. The order dated 23.05.2019 reads thus:

"Sri. Thomas Mathew Nellimoottil learned Standing Counsel for the respondent requests till time 30.05.2019. Post on 30.05.2019, enable him to get instructions from the respondent on the period within which the respondent could consider and pass orders for provisional release of subject goods as per rules".

3. Apropos to the order dated 23.05.2019, the Senior standing Counsel for

C.B.I.C filed a statement under the relevant portion which has bearing for disposing of the writ petition, reads thus; 3.It is submitted that, further investigations revealed that Mr.Karothukudy Abbas Muhammed Asif and Mr.Pareeth Aliyar Pallathukadavil are the Directors of M/s IMELT Extrusions Pvt. Ltd and that Mr. Nisar P. Aliyar, S/o Pareeth Aliyar and Mr. Asif are the master mind of the said smuggling of gold and Mr.Nizar P. Aliyar was arrested by DRI, Mumbai Zonal Unit and is still under Custody (Detention under COFEPOSA Act, 1974). The other culprit Mr.Asif is still absconding and yet to be interrogated.

4. It is humbly submitted that in the meantime, DRI have issued Restrain Order for detailed examination of two containers bearing Nos.RFCU 2208160 & BSIU 2279099 imported vide Bill of Entry No.2742289 dated 06.04.2019. The initial examination like opening the container and scanning the contents are over and a detailed examination of the containers will be done shortly. No other consignments imported by the importer had been stopped by DRI for detailed examination.

5. In the light of the above facts mentioned above, the said containers bearing Nos.RFCU 2208160 & BSIU 2279099 imported vide Bill of Entry No.2742289 dated 06.04.2019 can only be released to the importer after proper examination.

4. The stand of the respondents is that the respondents prefer detailed examination of subject containers particularly in the presence of a person authorized by the petitioner. The learned counsel Mr. P. A Augustian on instructions states that one MR. Abin M. Sajan will be an authorised representative of the petitioner for participation when detailed examination of goods covered under Exts.P4, P6, P8 and P10 is undertaken. The senior Standing counsel for C.B.I.C submits that the respondents would complete the detailed examination and pass orders in accordance with law within two weeks from today. The statement is placed on record and accepted. The writ petition is disposed of by this order.

MR. Abin M. Sajan now who is treated as the authorized representative of petitioner along with his proof of identity and copy of this order appears before the respondent within two days from today. The respondent on such presentation by the authorized representative stipulates a day for appearance of that person for conducting detailed examination and completes the entire exercise within two weeks from the date of presentation by the authorized representative. The Senior Standing Counsel is given liberty to communicate this order forthwith to the respondent.