
(2016) 01 MAD CK 0232

In the Madras High Court

Case No : Writ Petition Nos. 396-398 of 2016 and W.M.P. Nos. 273-275 of 2016

Rose Traders

APPELLANT

Vs

Commissioner of Customs, Madurai

RESPONDENT

Date of Decision : 12-01-2016

Acts Referred:

Citation : (2016) 335 ELT 223

Hon'ble Judges : R. Mahadevan, J.

Bench : Single Bench

Advocate : Shri Abdul Nazeer, Advocate, for the Petitioner; S/Shri S. Haja Mohideen Gisti and Yaseem Ali, Advocates, for the Respondents

Final Decision : Disposed Off

Judgement

R. Mahadevan, J.—These writ petitions have been filed by the petitioner seeking a direction to the second respondent to draw fresh samples from the consignment covered under Bill of Entries bearing B.E. No. 3530613 and B.E. No. 3530485, dated 9-12-2015 and B.E. No. 3421467, dated 30-11-2015 respectively, on the file of the first respondent and to forward the samples to the Notified Laboratory and to get their report and forward the same to the first respondent for the purpose of clearance of the perishable goods imported by the petitioner.

2. The petitioner company has been importing wet Dates from Gulf countries for six years and reselling it, after repacking. They imported Wet Dates from Royal Link International LLC, Dubai in nine containers under three Bill of Entries. They engaged the services of CHA, namely, M/s. Accord Logistics (India) Private Limited for the clearance of the above said goods. Out of nine containers, one container is loaded with high quality Dates under Bill of Entry No. 3421467, dated 30-11-2015. The remaining eight containers containing Dates were imported under Bill of Entry No. 3430485 and 3530613, dated 9-12-2015. After getting clearance from the first respondent, the petitioner was waiting for clearance by the second respondent. However, the second respondent, on mere

visual inspection, without sending the goods for laboratory examination, denied clearance. Hence, the petitioner sent a representation dated 21-12-2015 to the second respondent to collect samples and forward the same to the laboratory for testing. Since the petitioner has been incurring demurrage charges and the goods imported, namely, Dates, being agricultural product, are perishable in nature, the petitioner is before this Court with the above prayer.

3. The learned counsel for the petitioner submitted that the authorities of the Directorate of Plant Protection, Quarantine and Storage, Department of Agriculture and Co-operation, Ministry of Agriculture, Government of India, inspected the goods on 16-12-2015 and issued certificate recommending release of the goods on 18-12-2015 and thereafter only the petitioner made the representation dated 21-12-2015. The petitioner also submitted a reminder on 31-12-2015. Since there is no reply from the second respondent, the petitioner has filed this writ petition.

4. The learned counsel for the second respondent submitted that the date of manufacture of the goods goes back to 2014 and according to them, it may not be suitable for human consumption.

5. On the other hand, learned counsel for the petitioner submitted that without any laboratory test, by mere visual examination, it cannot be stated that the goods are unfit for human consumption.

6. Considering the submissions of both sides, in order to give quietus to this issue, the second respondent is directed to draw samples from the consignment and forward it to the Notified Laboratory. The petitioner is permitted to produce all the relevant documents, including the Origin Certificate to the authorities for consideration. The respondents are directed to consider the claim of the petitioner, on the basis of the report of the Laboratory Authorities, for earlier release, taking note of the recommendations of the Government of India by the certificate dated 18-12-2015 and pass necessary orders within two weeks from the date of receipt of a copy of this order.

7. These writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.