HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

W.P.No.24034 of 2023

PROCEEDING SHEET

Sl. No	DATE	ORDER	
4)	22.09.2023	**UDPR, J & AVRB, J** **I.A.No.1 of 2023** Registry is directed to print the name of learned Deputy Solicitor General for Respondent Nos.1 and 2. The petitioner seeks Mandamus to declare the Notification No.49/2023-Customs, dated 25.08.2023 and Notification No.50/2023-Customs, dated 25.08.2023 issued by the 1st respondent, enhancing the export duty against the Rice Para-boiled variant with HSN Code 1006 30 10 to 20% and the action of the 3rd respondent in demanding the export duty of 20% against 1300 Mts consignment of the petitioner lying in the Customs Area within the Kakinada Port Area for export is arbitrary and illegal and consequentially to allow the 1300 Mts consignment of the petitioner containing Rice Para-boiled variant with HSN Code 1006 30 10 lying in Customs Area within the Kakinada Port Area for export without levying any export duty. In this petition, the petitioner seeks a direction to the respondents to permit the petitioner to export the above consignments of the petitioner without reference to the impugned Notification No.49/2023- Customs, dated 25.08.2023 and Notification No.50/2023- Customs, dated 25.08.2023. Heard the learned counsel for the petitioner, Sri Challa Gunaranjan and learned Senior Standing Counsel	

		Sri Y.N.Vivekananda, representing the 3rd respondent and learned Deputy Solicitor General, representing the Respondent Nos.1 and 2. The learned counsel for petitioner referring to Notification No.49/2023-Customs, dated 25.08.2023 and also Notification No.50/2023-Customs, dated 25.08.2023, would submit that the Notification No.49/2023-Customs, dated 25.08.2023 though came into force with immediate effect i.e., 25.05.2023, however, date of duty mentioned therein, in the light of Notification No.50/2023-Customs, would come into force with effect from 16.10.2023 and as the consignment of the petitioner has already entered into the Customs Area within the Kakinada Port Area, in that view, the petitioner need not pay customs duty as mentioned in Notification No.49/2023-Customs, dated 25.08.2023. Learned counsel would further submit that even assuming that the petitioner is liable to pay 20% duty under notification No.49/2023, since he met with both the exemption qualifications mentioned in notification No.50/2023, on that count also he is not liable to pay duty. He would further submit that since the department contends that he is liable to pay duty, which controversy can be decided during the adjudication of the main writ petition, in the meanwhile petitioner's consignment may be permitted to be exported to the destination and the petitioner is ready to offer suitable security equivalent to the tax component. Learned Senior Standing Counsel stated that in case the petitioner is permitted to export the consignment, the petitioner may be directed to offer bank guarantee issued by any Nationalized Bank equivalent to the tax value.	

In view of the respective submissions, while posting the matter for filing counter after four (04) weeks, in the meanwhile, the petitioner is permitted to export his consignment i.e., Para-boiled rice of 1300 Mts in terms of shipping bills on the condition of petitioner offering a suitable Bank Guarantee issued by any nationalized Bank equivalent to 50% of the tax component and offering personal bond for the remaining 50% of the tax component. On such offering the bank guarantee and personal bond and meeting other statutory requirements, the 3rd respondent shall permit the petitioner to export the aforesaid consignment by revalidating the shipping bills, dated 21.08.2023.

UDPR, J

AVRB, J

Note: Issue CC forthwith

(B/o)
MVA

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Post after four weeks for counters.

UDPR, J

AVRB, J

MVA
