[3438]

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
THURSDAY, THE TWENTY FIRST DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY THREE
:PRESENT:
THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO
AND
THE HONOURABLE SRI JUSTICE A V RAVINDRA BABU

IA No. 1 OF 2023
IN
WP NO: 24038 OF 2023

Between:
PJS Overseas Ltd, Three Star Export House Lath Village, Gohana Tehsil, Sonipat District, Haryana Represented by its Authorized Signatory Mr. Garikikina Sanjeeva Rao

...Petitioner

AND

1. Union of India, Represented by the Secretary, Ministry of Finance, Department of Revenue, New Delhi
2. The Director General of Foreign Trade, Vanijya Bhawan, 'A' Wing, 16 Akbar Road, New Delhi -1100113.
3. The Additional Commissioner of Customs, Krishnapatnam Customs House, Krishnapatnam Port, Nellore

...Respondents

Counsel for the Petitioner :Sri Challa Gunaranjan

Counsel for the Respondent Nos.1 & 2: Sri N.Harinath, Deputy Solicitor General of India

Counsel for the Respondent No.3 : Sri Y.N Vivekanada, Standing Counsel

Petition under Section 151 of CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased direct the Respondents to permit the petitioner to export the 780 Mts of consignment of the Petitioner containing Rice Para-boiled variant with HSN Code 1006 30 10 lying in the Container Freight Stations of the 3rd respondent without reference to 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 by issuing necessary order, Pending disposal of WP No. 24038 of 2023, on the file of the High Court.

The court while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the following order.(The receipt of this order will be deemed to be the receipt of notice in the case).

ORDER:

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 780 Mts consignment of the petitioner lying in the Customs Freight Station within the Krishnapatnam Port Area for export is arbitrary and illegal and consequentially to allow the 780 Mts consignment of the petitioner containing Rice Para-boiled variant with HSN Code 1006 30 10 lying in Customs Freight Station within the Krishnapatnam 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 Freight Station within the Krishnapatnam Port Area, in that view, the petitioner need not pay customs duty as mentioned in Notification No.49/2023-Customs, dated 25.08.2023. 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 780 Mts in terms of shipping bills on the condition of petitioner offering a suitable bank guarantee issued by any Nationalized Bank equivalent to tax component. On such offering the bank guarantee as well as meeting the other statutory requirements, the 3rd respondent shall permit the petitioner to export the aforesaid consignment by revalidating the shipping bills, dated 19.08.2023.

Sd/- K.J RAJA BABU
ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To,

1. The Secretary, Union of India, Ministry of Finance, Department of Revenue, New Delhi
2. The Director General of Foreign Trade, Vanijya Bhawan, 'A' Wing, 16 Akbar Road, New Delhi -1100113.
3. The Additional Commissioner of Customs, Krishnapatnam Customs House, Krishnapatnam Port, Nellore **(Addressees 1 to 3 By RPAD)**
4. One CC to SRI. CHALLA GUNARANJAN Advocate [OPUC]
5. One CC to SRI SURESH KUMAR ROUTHU, Standing Counsel [OPUC]
6. One CC to SRI N.HARINATH, DEPUTY SOLICITOR GENERAL OF INDIA[OPUC]
7. One CC to Sri Y.N Vivekananda, Advocate [OPUC]
8. Two spare copies

PSR

HIGH COURT

UDPR,J
&
AVRB,J

DATED:21/09/2023

NOTE: POST THE MATTER AFTER FOUR (4) WEEKS

ORDER

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INTERIM DIRECTION