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[3438]

IN THE HIGH COURT OF ANDHRA PRADESH: AT AMARAVATI

(Special Original Jurisdiction)

SATURDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY THREE

:PRESENT:

THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO
AND
THE HONOURABLE SRI JUSTICE A V RAVINDRA BABU

WRIT PETITION NO: 26048 OF 2023

Between:

ARUNAA IMPEX, Landmark Centre, 15-2-380, Office No. 302, 3rd Floor, Siddiamber Bazar, Hyderabad, Telangana Represented by its Authorized Signatory Mr.B.Venkateswara 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, Kakinada Customs House, Kakinada Port, Kakinada

Respondents

Petition under Article 226 of the Constitution of India is filed praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of the writ of MANDAMUS declaring 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 thereby 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 the 1000 Mts consignments of the Petitioner containing Rice Para-boiled variant with HSN Code 1006 30 10 lying in the Customs Area within the Kakinada Port Area for export purportedly on account of the Impugned Notifications as being arbitrary, illegal, unjust, without jurisdiction and violative of the fundamental rights of the Petitioners guaranteed under Articles 14 and 19(1)(g) of the Constitution of India and consequently allow the 1000 Mts consignments of the Petitioner containing Rice Para-boiled variant with HSN Code 1006 30 10 lying in Customs Area for export without levying any export duty as introduced vide impugned notifications in accordance with the law.

IA NO: 1 OF 2023

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the Respondents to permit the petitioner to export the 1000 Mts consignment of the Petitioner containing Rice Para-boiled variant with HSN Code 1006 30 10 lying in the Customs Area of the 3rd respondent without reference to the Notification No. 49/2023- Customs dated 25.08.2023 & Notification No. 50/2023-Customs dated 25.08.2023 issued by the 1st Respondent by issuing necessary order, Pending disposal of W.P.No.26048 of 2023, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of SRI.CHALLA GUNARANJAN Advocate for the Petitioner, SRI.HARINATH N.(DEPUTY SOLICITOR GENERAL OF INDIA) for Respondent Nos.1 & 2 and Sri Y.N.Vivekananda, learned Senior Standing Counsel for Sri.Suresh Kumar Routhu, Standing Counsel for Respondent No.3, the Court made the following.

ORDER:

Heard Sri Challa Gunaranjan, learned Counsel for the Petitioner and Sri Y.N.Vivekananda, learned Senior Standing Counsel.

02. Learned counsel for the petitioner would submit that the subject matter in the writ petition is squarely covered by the order dated 22.09.2023 in I.A. No.1 of 2023 in W.P.No.24034 of 2023 and therefore, interim order may be passed in this writ petition in those lines.

03. The learned Senior Standing Counsel for the respondents, while refuting the contention of the petitioner that he is not bound to pay 20% of the tax since he has complied with both the conditions and on that ground he need not pay the tax, would submit that he need time to get instructions to file a regular counter.

04. Let the needful be done.

05. Since the points of argument raised by both the parties need a detailed hearing after a regular counter is filed by the respondents, there shall be interim order in the meanwhile in terms of the order dt.22.09.2023 in I.A. No.1 of 2023 in W.P. No.24034 of 2023.

06. Accordingly, while posting the matter for filing counter after four weeks, in the meanwhile, the petitioner is permitted to export his consignment i.e., Para-boiled rice of 1000 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, dt.05.08.2023.

Sd/- K. SRINIVASA RAJU
ASSISTANT REGISTRAR

//TRUE COPY//

For SECTION OFFICER

To,

1. The Secretary, Ministry of Finance, Department of Revenue, Union of India, 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, Kakinada Customs House, Kakinada Port, Kakinada (1 to 3 by RPAD)
4. One CC to SRI.CHALLA GUNARANJAN Advocate [OPUC]
5. One CC to SRI.HARINATH N (DEPUTY SOLICITOR GENERAL OF INDIA)) [OPUC]
6. One CCa to Sri.Suresh Kumar Routhu, Standing Counsel (OPUC)
7. One spare copy

SRL

HIGH COURT

UDPRJ & AVRBJ

DATED:07/10/2023

ORDER

WP.No.26048 of 2023

DIRECTION