HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI

WRIT PETITION No.31099 OF 2022

PROCEEDING SHEET

Sl. No.	DATE	ORDER	OFFICE NOTE
01.	22.09.2022	**CPK, J & AVRB, J:** (Taken up as Lunch Motion) **W.P. No.31099 OF 2022** Notice before admission. Sri Suresh Kumar Routhu, learned Standing Counsel for Customs, takes notice on behalf of the 2nd respondent while Sri N. Harinath, learned Deputy Solicitor General, takes notice on behalf of the 1st respondent. Sri Challa Gunaranjan, learned counsel for the petitioners, would submit that the Notification dated 08.09.2022, which came into effect from 09.09.2022, imposes 20% duty on export of Semi-milled or wholly-milled rice. According to him, the rice, which is to be exported, reached Kakinada Port much prior to the date of Notification and process of loading has also commenced. According to him, the shipping bills, as well as letter of export order, came to be issued much prior to the date on which Notification referred to above came to be issued. He further submits that if no interim order is passed, there is every possibility of ship leaving the Port and if	

		that is done, the petitioners will be put to irreparable loss. He further submits that Section 16(1) of the Customs Act, 1962 postulates '***rate of duty and tariff valuation, if any, applicable to any export goods, shall be the rate and valuation in force***'. That being the position, he would contend that the duty rate prevailing as on the date of issuance of shipping bill or export order issued under Section 50, should be taken into consideration as the date for imposing duty, if any. Sri Suresh Kumar Routhu, learned Standing Counsel for Customs, would submit that since the issue raised in the Writ Petition requires adjudication at length, the interest of the respondents be protected. In other words, his argument appears to be that there should be some security for the goods exported without paying 20% export duty. To this, Sri Challa Gunaranjan, learned counsel for the petitioners, submits that the case on hand is squarely covered by the Judgment of the Hon'ble Supreme Court in ***Gangadhar Narsingdas Agarwal v. P.S. Thrivikraman and others*** (AIR 1973 SC 350) and as such, the question of paying duty would not arise.	

We do not intend to go into the question whether the petitioners are liable to payment of export duty, at this stage.

Having regard to the facts and circumstances of the case, we direct the 2nd respondent to permit the Port authorities to load Semi-milled or wholly-milled rice belonging to the petitioners, in respect of which shipping bills are issued, prior to the date of Notification, subject to petitioners furnishing bank guarantee for 40% of the export duty within a period of one (1) week from today. The charges, if any, shall be paid by the petitioners, in case of default in furnishing bank guarantee, the Port authorities are at liberty to proceed further with regard to the stock loaded in the ship in accordance with law.

Post the matter on 15.11.2022.

Meanwhile, counters, if any shall be filed.

CPK, J

AVRB, J

Note:
Issue C.C. today.
Dsh