(SHOW CAUSE NOTICE BEFORE ADMISSION)
IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)

THURSDAY, THE TWENTY NINETH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY TWO
:PRESENT:
THE HONOURABLE SRI JUSTICE C.PRAVEEN KUMAR
AND
THE HONOURABLE SRI JUSTICE A V RAVINDRA BABU

WRIT PETITION NO: 31888 OF 2022

Between:

KRBL Ltd, 5190, Lahori Gate, Delhi, Rep' by its Authorised Signatory, N.Aravind Kanth.

...Petitioner

AND

1. Union of India, Represented by the Secretary, Department of Revenue, Ministry of Finance, New Delhi-1100 001
2. The Deputy Commissioner of Customs, Kakinada Customs House, Kakinada.

...Respondents

WHEREAS the Petitioner above named through its Advocate Sri Challa Gunaranjan presented this Petition under Article 226 of the Constitution of India 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 action of the 2nd Respondent in demanding the petitioner to pay export duty of 20% on their Consignments which have been issued shipping bills purportedly on account of the Notification No. 49/2022 - Customs dated 08.09.2022 issued by the 1st respondent as being arbitrary, illegal, unjust, without jurisdiction, contrary to provisions of the Customs Act, 1964 and violative of the fundamental rights of the Petitioners guaranteed under Articles 14 and 19(1)(g) of the Constitution of India.

AND WHEREAS the High Court upon perusing the petition and affidavit filed herein and upon hearing the arguments of Sri Challa Gunaranjan, Advocate for the Petitioners and of Sri N. Harinath, Deputy Solicitor General for Respondent No.1 and Sri Suresh Kumar Routhu, Standing Counsel for Respondent No.2, directed issue of notice to the Respondents herein to show cause as to why this WRIT PETITION should not be admitted.

You viz:

1. The Secretary, Union of India, Department of Revenue, Ministry of Finance, New Delhi-1100 001
2. The Deputy Commissioner of Customs, Kakinada Customs House, Kakinada.

are be and hereby directed to show cause either appearing in person or through an Advocate, as to why in the circumstances set out in the petition and the affidavit filed therewith (copy enclosed) this WRIT PETITION should not be admitted.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased direct the 2nd Respondent to permit the petitioner to export the consignments which have been given Shipping Bills prior to the Notification No. 49/2022 - Customs dated 08.09.2022 coining into force, into the MV Eternity C Vessel or in any other Vessel as the Petitioner may propose if the said MV. Eternity C Vessel leaves the Port before the conclusion of the loading of the said quantity of the consignment, pending disposal of WP No. 31888 of 2022, on the file of the High Court.

The Court made the following;

ORDER:

"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 petitioner, would submit that Notification No.49/2022, dated 08.09.2022, came to be issued and published in Gazette, imposing 20% export duty on Semi-milled or wholly-milled rice, whether or not polished or glazed (other than Parboiled rice and Basmati rice) and the same came into effect from 09.09.2022. He submits that much prior to the notification, shipping bills came to be issued and as such, paying of 20% export duty would not arise in the case of the petitioner.

Learned Standing Counsel for the 2nd respondent, while opposing the contention of the learned counsel for the petitioner, would contend that though they issued shipping bills, the order permitting the clearance, (which is also known as Let Export Order) has not been obtained by the petitioner and hence, contends that the petitioner has to pay 20% export duty.

As seen from the record, more particularly, Notification No.49 of 2022, the shipping bill came to be issued on 08.09.2022 and the Gazette Publication was on 09.09.2022. The shipping bill which is issued by the Central Board of Indirect Taxes and Customs show that the said bill was issued on 08.09.2022, but at 10-00 p.m.

The learned counsel for the petitioner submits that issuance of shipping bill demonstrates compliance of Sections 50 and 51 of the Act, but the same is disputed by the learned Standing Counsel appearing for the 2nd respondent.

The issues involved require adjudication.

As the goods are in custody of Customs authority, which is evident from shipping bill issued, it would be just and proper to direct the 2nd respondent to permit the Port authorities to load Semi-milled or wholly-milled rice, whether or not polished or glazed (other than Parboiled rice and Basmati rice), belonging to the petitioner, subject to furnishing bank guarantee to an extent of 50% of the export duty, within a period of one week from 30.09.2022. In case of any default, the Port authorities are at liberty to proceed further in accordance with law. It is needless to mention that if any format is there for obtaining bank guarantee, the authorities may furnish the same forthwith to the petitioner."

Sd/-N.NAGAMMA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Secretary, Union of India, Department of Revenue, Ministry of Finance, New Delhi-1100 001
2. The Deputy Commissioner of Customs, Kakinada Customs House, Kakinada.**(1 & 2 by RPAD**- along with a copy of petition and Affidavit)
3. One CC to Sri. Challa Gunaranjan, Advocate [OPUC]
4. One CC to Sri. Suresh Kumar Routhu, Standing counsel [OPUC]
5. One CC to Sri N. Harinath, Deputy Solicitor General [OPUC]
6. Two spare copies.

MSB

HIGH COURT

CPK,J & AVRB,J

DATED:29/09/2022

ORDER

NOTICE BEFORE ADMISSION

WP.No.31888 of 2022

INTERIM DIRECTION