

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI  
(SPECIAL ORIGINAL JURISDICTION)  
FRIDAY, THE THIRD DAY OF NOVEMBER  
TWO THOUSAND AND TWENTY THREE

:PRESENT:

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI  
AND

THE HONOURABLE SRI JUSTICE V SRINIVAS  
WRIT PETITION NO: 28604 OF 2023



Between:

R V Exports Pvt Ltd, A-18, Nityanand Nagar A, Queens Road, Vaishali Nagar, Jaipur 302021, Represented by its Authorized Signatory Mr. Umesh Tiwari

...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, Customs House, Port Area, Visakhapatnam - 530035

...Respondents

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 Notification No. 49/2023 -Customs dated 25.08.2023 & Notification No. 50/2023- Customs dated 25.08.2023 issued by the 1<sup>st</sup> 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 31-d Respondent in demanding the export duty of 20 % against the 257 Mts of consignment of the Petitioner containing Rice Para-boiled variant with HSN Code 1006 30 10 lying in the Customs Freight Station within the Visakhapatnam 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 Consignment of the Petitioner lying in CFS 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 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 257 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 3<sup>rd</sup> 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 1<sup>st</sup> Respondent by issuing necessary order, Pending disposal of WP 28604 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 VIVEK CHANDRA SEKHAR S Advocate for the Petitioner, and of SRI JUPUDI V K YAGNA DUTT, DEPUTY SOLICITOR GENERAL OF INDIA, for the Respondent Nos.1 & 2, and of SRI SHANTI CHANDRA, Standing Counsel for the Respondent No.3, the Court made the following

**ORDER:**

Learned counsel for the petitioner submits that the controversy as involved in the present case is involved in W.P.No.24034 of 2023 in which in I.A.No.1 of 2023 a Co-ordinate Bench has passed the interim order dated 22.09.2023.

2. The order dated 22.09.2023 reads as under:-

“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 1<sup>st</sup> respondent, enhancing the export duty against the Rice Para-boiled variant with HSN Code 1006 30 10 to 20% and the action of the 3<sup>rd</sup> 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 3<sup>rd</sup> 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 3<sup>rd</sup> respondent shall permit the petitioner to export the aforesaid consignment by revalidating the shipping bills, dated 21.08.2023."

3. Sri Y. N. Vivekananda, learned counsel for the respondent No.3 also submits that the same order may be passed in the present case also.

4. Accordingly, it is provided that the petitioner is permitted to export his consignment i.e., Para-boiled rice of 257 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 of the bank guarantee and personal bond and meeting other statutory requirements, the 3<sup>rd</sup> respondent shall permit the petitioner to export the aforesaid consignment by revalidating the shipping bills, dated 17.08.2023.

5. The respondents may file the counter affidavits within a period of four (04) weeks.

6. List on 01.12.2023, along with W.P.No.24034 of 2023.

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For

Sd/- S. SRINIVASA PRASAD  
ASSISTANT REGISTRAR  
SECTION OFFICER

To,

1. The Secretary, Union of India, Ministry of Finance, Department of Revenue, New Delhi
2. The Director General of Foreign Trade, Vanija Bhawan, 'A' Wing, 16 Akbar Road, New Delhi -1100113.
3. The Additional Commissioner of Customs, Customs House, Port Area, Visakhapatnam - 530035 (**Addressees 1 to 3 by RPAD**)
4. One CC to SRI. VIVEK CHANDRA SEKHAR S Advocate [OPUC]
5. One CC to SRI JUPUDI V K YAGNA DUTT, DEPUTY SOLICITOR GENERAL OF INDIA, High Court of Andhra Pradesh [OUT]
6. One CC to SRI SHANTI CHANDRA, Standing Counsel [OPUC]
7. Two spare copies

PSR



HIGH COURT

RNT,J  
&  
SV,J

DATED:03/11/2023

NOTE: LIST ON 01.12.2023, ALONG WITH W.P.NO.24034 OF 2023.

ORDER

WP.No.28604 of 2023

INTERIM DIRECTION

