

Pushpa Sathyanarayana, J

Dated: December 13, 2019

Appellant Rep by: Mr R S Sivaram

Respondent Rep by: Mr R Aravindan Sr. Standing Counsel

Cus - The petitioner is an Air Cargo Customs Clearing Agent Company - During course of business, they got an order for shipment of Air inlet automobile spare parts from a new customer named, Swiss Global - For the above shipment, bills were given by exporter to the Petitioner and the goods were received and sent for customs clearance - But the second respondent did not give customs clearance for shipment on the ground of over valuation of product - What was imported is neither a prohibited good nor an unlawful good, but it is only automobile spare parts - The second respondent had also conducted an enquiry with the Head of the Office of the Petitioner Company and also with the employees, several times - It is alleged that the authorities are misusing their power and harassing the Petitioner - Therefore, the Petition is filed for a mandamus directing the respondents not to harass the Petitioner in the guise of enquiry either by personal appearance or search warrant or interfering with the day-to-day business of the Petitioner's company - The search of the Head of the Office of the Petitioner company personally, is challenged - The action on the part of the respondents is quite natural and incidental - Hence, the Petitioner cannot preclude the officials of respondents from proceeding with their official duty - In the light of the facts, recording the paragraph of the counter, wherein, the respondents have given an undertaking that the Petitioner will not be harassed in the guise of enquiry and investigation, the respondents are directed to conclude the enquiry with the Petitioner and their staff members within a period of one month: HC

Writ Petition disposed of

#### JUDGEMENT

This Writ Petition has been filed seeking issuance of a Writ of Mandamus directing the respondents not to harass the Petitioner in the guise of enquiry either by personal appearance or search warrant or interfering in the day-to-day business of the Petitioner.

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.
3. The Writ Petitioner is a Air Cargo Customs Clearing Agent Company. During the course of business, the Petitioner company got an order for shipment of Air inlet automobile spare parts from a new customer named, Swiss Global. For the above shipment, bills were given by the exporter to the Petitioner and the goods were received and sent for customs clearance at Tiruchirappalli Airport on 10.6.2019. But the second respondent/The Assistant Commissioner of Customs, Air Cargo Complex, Customs Airport, Trichy did not give customs clearance for the shipment on the ground of over valuation of the product. The Consignor also sent a reply to the second respondent, but the second respondent refused to give customs clearance. What was imported is neither a prohibited good nor an unlawful good, but it is only automobile spare parts. The second respondent does not have any say about the price of the goods. In this regard, the second respondent had also conducted an enquiry with the Head of the Office of the Petitioner Company and also with the employees, several times. According to the Petitioner, the Petitioner/company is doing only clearing work after verifying all the documents given by the consignor. If anything is wrong with the consignor, the respondents should proceed with them as per law. But in the given case, the goods are neither prohibited nor unlawfully shipped. It is alleged that the authorities are misusing their power and harassing the Petitioner. Therefore, the Writ Petition is filed for a mandamus directing the respondents not to harass the Petitioner in the guise of enquiry either by personal appearance or search warrant or interfering with the day-to-day business of the Petitioner's company.

4. An additional typed-set of papers was filed by the Petitioner in which the mahazar prepared in pursuance of the search conducted in the Petitioner's office on 30.9.2019, is furnished. After drawing of the mahazar on the spot, procedure was completed on the same day in the presence of the Inspector of Customs and Superintendent of customs.
5. The learned counsel for the respondents submitted that it is only a procedural act and they are not intentionally harassing the Petitioner and other staffs, as alleged by Petitioner
6. Without going into the facts of the case, the penultimate para in the counter is extracted hereunder:  
"It is further assured before this Honourable Court that the respondent will not harass the Petitioner in the guise of enquiry and investigation but the enquiry and investigation will be conducted in accordance with law and following the principles of natural justice."
7. The search of the Head of the Office of the Petitioner company personally, is challenged. The action on the part of the respondents is quite natural and incidental. Hence, the Petitioner cannot preclude the officials of the respondents from proceeding with their official duty. It is also to be stated that the officials of the respondents also cannot exceed their limit, in the guise of enquiry, by violating the human rights.
8. In the light of the above facts, recording the above paragraph of the counter, wherein, the respondents have given an undertaking that the Petitioner will not be harassed in the guise of enquiry and investigation, the respondents are directed to conclude the enquiry with the Petitioner and their staff members within a period of one month from the date of receipt of a copy of this order.
9. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.