



2024/KER/17418

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

MONDAY, THE 4TH DAY OF MARCH 2024 / 14TH PHALGUNA, 1945

WA NO. 316 OF 2024

AGAINST THE JUDGMENT DATED 26.2.2024 IN WP(C) NO.5844 OF
2024 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

R. KRISHNAPRASAD, AGED 65 YEARS
PROPRIETOR OF KARTHIKA TRADERS, 5/517,
VILAKKANAMKODE HOUSE, PATTENCHERRY, PALAKKAD,
KERALA, PIN - 678532

BY ADVS.ASWIN GOPAKUMAR
ADITYA VENUGOPALAN, ANWIN GOPAKUMAR
MAHESH CHANDRAN, NIKITHA SUSAN PAULSON
SARANYA BABU, SHALLET K. SAM

RESPONDENTS/RESPONDENTS:

- 1 THE COMMISSIONER OF CUSTOMS
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, CUSTOM
HOUSE, INDIRA GANDHI ROAD, WILLINGDON ISLAND,
COCHIN, PIN - 682009
- 2 THE ASSISTANT COMMISSIONER OF CUSTOMS (APPG.)
DEPARTMENT OF REVENUE, MINISTRY OF FINANCE, CUSTOM
HOUSE, INDIRA GANDHI ROAD, WILLINGDON ISLAND,
COCHIN, PIN - 682009

BY ADV. P.G. JAYASHANKAR PGJ

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
04.03.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



J U D G M E N T

Dr. A.K.Jayasankaran Nambiar, J.

This writ appeal is preferred against the judgment dated 26.2.2024 of the learned Single Judge that dismissed the writ petition preferred by the appellant seeking a provisional release of a consignment of Technical Grade Urea imported by the appellant that was found not adhering to the requirement of Biuret content as per IS 1781:1975, RA 20121. The learned Single Judge found that this Court had no expertise to hold that the Chemical Examiner's report relied upon by the Customs authorities was incorrect and therefore, the writ petition seeking the reliefs prayed for was not maintainable.

2. When the appeal came up for admission before this Court, after considering the factual circumstances that led to the filing of the writ petition, we were also not inclined to interfere with the judgment of the learned Single Judge. However, responding to the plea of the learned counsel for the appellant for a direction to the Customs Authority to forward a sample of the imported consignment for testing at the referral laboratory, we adjourned the matter to enable the learned Standing Counsel for the respondents to get instructions as to



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which referral laboratory would be most appropriate for carrying out the tests to confirm the quality of the imported consignment of Technical Grade Urea.

3. When the matter was taken up today, Sri. P.G. Jayasankar, the learned counsel for the respondents submitted that, while there are laboratories at Faridabad, Chennai, Mumbai, Kalyani (West Bengal), the most expeditious testing would be possible at Faridabad, although geographically the Chennai Laboratory is closest to Kochi. Taking note of the said submission, we feel that it would be in the best interest of the appellant/importer that the testing is expeditiously done, since any delay in testing would entail detention of the goods in the port and consequential demurrage and other charges to the appellant. Through I.A.No.2/2024, the appellant has produced a copy of the communication dated 1.3.2024 whereby he has requested for drawing samples from the consignment of Urea imported by him for the purposes of sending the same to the referral laboratory for an independent analysis at the said accredited laboratory. Under such circumstances, we dispose the appeal with the following directions:

1. The impugned judgment of the learned Single Judge is not interfered with.
2. The respondents shall jointly with the appellant, draw samples from the consignment of the Urea imported by the appellant which is the subject matter of these proceedings and after giving one sample to the appellant, send the other samples to the referral laboratory namely, Central Fertilizer



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- Quality Control Unit, Faridabad for analysis and for a test report on the Biuret content in the said sample; as to whether or not it conforms to the specifications for technical grade Urea as per IS 1781:1975, RA 2021.
3. The referral laboratory namely Central Fertilizer Quality Control Unit, Faridabad, shall ensure that the analysis of the sample is done expeditiously and that the report thereof reaches the Kochi Customs Authority within a month from the date of receipt of the sample at the said laboratory.
 4. The assessment of the Bill of Entry to customs duty shall be completed based on the report obtained from the referral laboratory aforesaid.

The Writ appeal is disposed of as above.

sd/-

DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

sd/-

DR. KAUSER EDAPPAGATH
JUDGE

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APPENDIX OF WA 316/2024

PETITIONER ANNEXURES

Annexure A1

**TRUE COPY OF THE ACKNOWLEDGEMENT DATED
01.03.2024 RECEIVED FROM THE CUSTOMS
PORTAL**