

HIGH COURT OF MEGHALAYA
AT SHILLONG

MC (WPC) No. 58 of 2019

Date of Order: 29.03.2019

Meghalaya Global Services Limited	Vs.	The Union of India & 5 Ors.
-----------------------------------	-----	-----------------------------

Coram:

Hon’ble Mr. Justice H. S.Thangkhiew, Judge

Appearance:

For the Applicant(s)/Petitioner(s):	Mr. G.N. Sahewalla, Sr. Adv. with Mr. M. Sahewalla, Adv.
For the Respondent(s)	Mr. P. Shome, Adv. (For R 1-4) Mr. N. Mozika, Adv. (For R 5&6)

i)	Whether approved for reporting in Law journals etc.:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

Heard Mr. G.N. Sahewalla, learned senior counsel assisted by Mr. M. Sahewalla, learned counsel for the applicant/petitioner. Also heard Mr. P. Shome, learned counsel for the respondents No. 1 to 4 and Mr. N. Mozika, learned counsel for the respondents No. 5 & 6.

In the instant Misc. application the applicant/petitioner has prayed for a direction to be issued to the respondents No. 5 and 6 to forthwith release the goods as mentioned at Para-13 of the Misc. application, extract whereof is quoted hereinbelow:

“13. The petitioner states that the respondents were furnished with a copy of the order of this Hon’ble Court dated 28th November, 2018. In spite of this, the respondents illegally detained goods and did not allow the clearance of Yellow Peas and Green Peas that have already arrived at NHAVA SHEVA port under Bill of Entry Nos. 9741648,

9734251, 9717276, 2249498, 2249194, 2248976, 9848155, 9848056. Further, consignment under Bill of Lading Nos. 23, 24, 25, 26, 27, 28, 29, 30 of Vessel MV GREAT LINK are yet to arrive at the port of KOLKATA..... period of stay.”

By the order dated 22.03.2019, the learned counsel for the respondents No. 5 & 6 had prayed for 1(one) week’s time to obtain specific instructions with regard to the prayer made in the Misc. application. Today, learned counsel for the respondents No. 5 & 6 submits that he has not received any instructions with regard to the release of the goods of the applicant/petitioner. The situation being such that the goods are perishable, coupled with the fact that this Court had granted interim order on 28.11.2018 whereby the impugned Notifications have been stayed, there is no reason that the applicant/petitioner be not allowed to lift the goods which have arrived and for the goods which are yet to arrive.

In view of the facts and circumstances aforementioned, it is directed that the respondent No. 5 and 6 shall permit the applicant/petitioner to lift the goods as per the Bill of Entry & Bill of Lading quoted above without making any payment except for the import duty as payable. It is also directed that the respondent No. 5 issue detention certificate in terms of Para-22 which is quoted herein:

“22. The petitioner submits that direction be given to the Respondents to issue a ‘Detention Certificate’ for waiver of Demurrage and Container Detention charges in terms of Regulation 6(1)(I) of Handling of Cargo in Customs Areas Regulations 2009 and thus render justice.”

With these directions, the instant Misc. application is accordingly disposed of.

JUDGE

Meghalaya
29.03.2019
“V. Lyndem PS”