



2023:KER:74045

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

FRIDAY, THE 24TH DAY OF NOVEMBER 2023 / 3RD AGRAHAYANA, 1945

WP(C) NO. 39152 OF 2023

PETITIONERS:

NUTRIGENOMICS PRIVATE LIMITED
AGED 42 YEARS
REPRESENTED BY MANAGER: JAIKRISHNAN SREEKUMAR,
NUTRIGENOMICS PRIVATE LIMITED, B-3, K.P VALLON ROAD,
KADAVANTHRA KERALA, PIN - 682 020.

BY ADVS.
JIJO JOSE
MANOJ V GEORGE
ABHISHEK

RESPONDENTS:

- 1 COMMISSIONER OF CUSTOMS
CUSTOMS HOUSE, WILLINGDON ISLAND, COCHIN, KERALA,
PIN - 682 009.
- 2 ASSISTANT COMMISSIONER OF CUSTOMS
AIR CARGO COMPLEX, NEDUMBASSERRY, KOCHI,
PIN - 683 572.
- 3 JOINT COMMISSIONER OF CUSTOMS
AIR CARGO COMPLEX, NEDUMBASSERRY, KOCHI,
PIN - 683 572.

OTHER PRESENT:

SREELAL N. WARRIER-SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
24.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



DINESH KUMAR SINGH, J.

WP(C) NO. 39152 OF 2023

Dated this the 24th day of November, 2023

J U D G M E N T

1. The present writ petition has been filed for the following reliefs:-

- a) *Issue a writ of mandamus directing the Respondent No. 2 &3 to consider the Exhibit P5, Exhibit P6 and Exhibit P7 representations of the Petitioner;*
- b) *Direct Respondents 2 & 3 to recall, re-assess bill of entry and to release the consignment of the imported goods which have limited shelf life and are perishable in nature;*
- c) *Direct the respondents to levy appropriate duty under the HS codes 30045090 and 29181590 only, applicable on the imported items namely Orthoplex Clinical C 100T, Orthoplex Citramag 120C and Orthoplex Zinc Citrate 90C, all of which*



are nutritional health supplements;

d) Pass such other orders as this Hon'ble Court deems fit and proper in the facts and circumstances of the case.

2. The petitioner has approached Deputy/ Assistant Commissioner of Customs, Air Cargo Complex, Nedumbasserry, Cochin in respect of his imports. The learned counsel for the petitioner submits that the authority may be directed to consider the representations in Ext.P5 to Ext.P7 and pass necessary order that the petitioner could pay the differential duty under protest and the goods may be released.

3. Considering the said request, the present writ petition is disposed of with a direction to the 2nd respondent / 3rd respondent to consider the representations of the petitioner in Ext.P5 to Ext.P7 and to pass necessary order. On such consideration, the petitioner should be intimated



the differential duty and tax, if any, to be paid by the petitioner. On payment of the differential duty and tax if any, the petitioner's goods should be released in accordance with the law. If the petitioner disputes the duty, he should make the payment under pretest.

4. With the aforesaid direction, the present writ petition is disposed of.

**Sd/-
DINESH KUMAR SINGH
JUDGE**

rpr



APPENDIX OF WP(C) 39152/2023

PETITIONER'S EXHIBITS

- Exhibit P1 A TRUE COPY OF THE EXPORT IMPORT LICENSE
ISSUED TO THE PETITIONER DATED 17/10/2012.
- Exhibit P2 TRUE AND CORRECT COPY OF THE LABEL OF FOOD
SUPPLEMENTS ALONG WITH THE PURCHASE ORDER
DATED 01/09/2023.
- Exhibit P3 TRUE COPY OF THE BILL OF ENTRY RAISED ON
30/10/2023.
- Exhibit P4 TRUE COPY OF THE CERTIFICATE ISSUED BY THE
AUSTRALIAN CHAMBER OF COMMERCE & INDUSTRY
DATED 23/10/2023.
- Exhibit P5 TRUE COPY OF THE REPRESENTATION MADE BY THE
PETITIONER BEFORE THE 2ND RESPONDENT ON
09/11/2023.
- Exhibit P6 TRUE COPY OF THE REPRESENTATION MADE BY THE
PETITIONER BEFORE THE 2ND RESPONDENT ON
13/11/2023.
- Exhibit P7 TRUE COPY OF THE REPRESENTATION MADE BY THE
PETITIONER BEFORE THE 3RD RESPONDENT ON
15/11/2023.
- Exhibit P8 TRUE COPY OF BILLS OF ENTRY CLEARED BY THE
RESPONDENTS DATED 24/12/2020.
- Exhibit P9 TRUE COPY OF BILLS OF ENTRY CLEARED BY THE
RESPONDENTS ON 28/02/2023.