Nishant Export vs Union of India

Nishant Export vs Union of India

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Court : Kerala

Decided On : Aug-25-2023

Judge : Honourable Mr.Justice V.G.Arun

Appeal No. : WP(C)/21910/2018

Appellant : Nishant Export

Respondent : Union of India

Judgement :

W.P.(C)Nos.19351/2021 & Others 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN FRIDAY, THE 25TH DAY OF AUGUST 2023 / 3RD BHADRA, 1945 WP(C) NO. 19351 OF 2021 PETITIONER: M/S MRJ TRADING, 215-B, THRIKKAVU, 29, PONNANI, MALAPPURAM - 679677, REPRESENTED BY ITS PROPRIETOR ABDULLA JASIM M.P. BY ADVS. HARI KUMAR G NAIR AKHIL SURESH AAMIR SOHRAB M. M. RESPONDENTS:

1 UNION OF INDIA, REPRESENTED BY ITS SECRETARY, MINISTRY OF CORPORATE AFFAIRS, FINANCE DEPARTMENT OF REVENUE, ROOM NO. 46, NORTH BLOCK, NEW DELHI - 110001. 2 DIRECTOR

GENERAL OF FOREIGN TRADEOFFICE OF THE DIRECTOR GENERAL OF FOREIGN TRADE, UDYOGABHAVAN, NEW DELHI - 110011. 3 COMMISSIONER OF CUSTOMSCUSTOMS HOUSE, WELLINGTON ISLAND, KOCHI - 682009. BY ADVS. SHRI.P.VIJAYAKUMAR, ASG OF INDIA S.KRISHNA P.G.JAYASHANKAR MANU S., ASG OF INDIA

OTHER PRESENT: SC FOR CUSTOMS SREELAL WARRIER;SC FOR SPICES BOARD ANTONY MUKKATH;SC FOR UPASI M. GOPIKRISHNAN NAMBIAR DSGI S.MANU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.10.2022, ALONG WITH WP(C).1067/2022, 1128/2022 AND CONNECTED CASES, THE COURT ON 25/8/2023 DELIVERED THE FOLLOWING: W.P.(C)Nos.19351/2021 & Others 2

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN FRIDAY, THE 25TH DAY OF AUGUST 2023 / 3RD BHADRA, 1945 WP(C) NO. 1067 OF 2022 PETITIONER: M/S.SHABEER ENTERPRISES,HAVING ITS REGISTERED OFFICE AT NO.7/299, KUMARANELLUR P.O., WADAKKANCHERY, THRISSUR-680 590, REPRESENTED BY ITS PROPERIETOR SHRI.A.H.MOAHMMED. BY ADV M.S.SAJEEV KUMAR RESPONDENT:

1 UNION OF INDIA,REPRESENTED BY ITS SECRETARY, MINISTRY OF FINANCE, DEPARTMENT OF REVENUE(CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS), NORTH BLOCK, NEW DELHI-110 001. 2 DIRECTOR GENRAL OF FOREIGN TRADE, UDYOG BAHVAN, H- WING, GATE NO.2, MOULANA AZAD ROAD, NEW DELHI-110 011. BY ADV SHRI.K.SHRI HARI RAO, CGC DSGI S.MANU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION

ON 21.10.2022, ALONG WITH WP(C).19351/2021 AND CONN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN FRIDAY, THE 25TH DAY OF AUGUST 2023 / 3RD BHADRA, 1945 WP(C) NO. 1128 OF 2022 PETITIONER: AL QAHIR INTERNATIONAL, HAVING IT'S REGISTERED OFFICE AT NO.1/1489A, KUMARANELLUR, WADAKKANCHERY, THRISSUR - 680590, REPRESENTED BY ITS MANAGING PARTNER, SHRI. SHIHAD. BY ADV M.S.SAJEEV KUMAR RESPONDENTS:

1 UNION OF INDIAREPRESENTED BY IT'S SECRETARY, MINISTRY OF FINANCE, DEPARTMENT OF REVENUE (CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS), NORTH BLOCK, NEW DELHI - 110001. 2 DIRECTOR GENERAL OF FOREIGN TRADE.UDYOG BHAVAN, H- WING, GATE NO.2, MOULANA AZAD ROAD, NEW DELHI - 110011. BY ADVS. SHRI.S.BIJU, CGC SHRI.HARIDAS P.NAIR, CGC, DSGI S.MANU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.10.2022, ALONG WITH WP(C).19351/2021 AND CONNECTED CASES, THE COURT ON 25/8/2023 DELIVERED THE FOLLOWING: W.P.(C)Nos.19351/2021 & Others 4

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN FRIDAY, THE 25TH DAY OF AUGUST 2023 / 3RD BHADRA, 1945 WP(C) NO. 1119 OF 2022 PETITIONER: AABIS INTERNATIONAL, REGISTERED OFFICE AT DOOR NO.10/1286, BHIMA TOWER, IIND FLOOR, WADAKKANCHERY, THRISSUR, KERALA-680582, REPRESENTED BY ITS MANAGING PARTNER SHRI. SHABU C.M. BY ADVS. M.S.SAJEEV KUMAR LAKSHMI S KUMAR A.N.JYOTHILEKSHMI RESPONDENTS:

1 UNION OF INDIA, REPRESENTED BY ITS SECRETARY, MINISTRY OF FINANCE, DEPARTMENT OF REVENUE (CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS), NORTH BLOCK, NEW DELHI-110001. 2 DIRECTOR GENERAL OF FOREIGN TRADE, UDYOG BHAVAN, H-WING, GATE NO.2, MOULANA AZAD ROAD, NEW DELHI-110011. BY ADV SHRI.JAGADEESH LAKSHMAN, CGC DSGI S.MANU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.10.2022, ALONG WITH WP(C).19351/2021 AND CONNECTED CASES, THE COURT ON 25/8/2023 DELIVERED THE FOLLOWING: W.P.(C)Nos.19351/2021 & Others 5

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN FRIDAY, THE 25TH DAY OF AUGUST 2023 / 3RD BHADRA, 1945 WP(C) NO. 15917 OF 2018 PETITIONERS:

1 M/S.KANCOR INGREDIENTS LTD., KANAKKAN KADAVU ROAD, ANGAMALLY SOUTH,KERALA - 683573 (HAVING REGISTERED OFFICE AT 5TH FLOOR,IMPERIUM 159, MAROL MA ROSHI ROAD,VIJAY NAGAR, ANDHERI EST MUMBAI 400059),REPRESENTED BY ITS CHIEF EXECUTIVE OFFICERMR.GEEMON KORAH. 2 MS.SYNTHITE INDUSTRIES LIMITED, SYNTHITE CORPORATE HOUSE, VIII 683-A,KADAYIRUPPU, KOLENCHERY, ERNAKULAM,KERALA 682311, REPRESENTED BY ITS SRI.V.P.CORPORATE FINANCE & COMPANY SECRETARY,MR.SALES K FRANCIS. BY ADVS. SRI.ANIL D. NAIR SRI.ACHYUT K PADMARAJ SRI.M.BALAGOPAL SMT.R.DEVIKA ALAPPUZHA KUM.MEKHALA M.BENNY SRI.R.SREEJITH K.SRIKUMAR (SR.)

RESPONDENTS: 1 DIRECTOR GENERAL OF FOREIGN TRADE, OFFICE OF THE DIRECTOR GENERAL OF FORIEGN TRADE,UDYOG BHAVAN, NEW DELHI-110011. 2 COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE, WILLINGTON ISLAND, KOCHI-3. 3 UNION OF INDIA, REPRESENTED BY ITS SECRETARY,DEPARTMENT OF COMMERCE AND INDUSTRY,NEW DELHI - 110011. ADDL.R4. SPICES BOARD, REPRESENTED BY ITS DIRECTOR (MARKETING) SUGANDHA BHAVAN, N.H.BY PASS PALARIVATTOM, KOCHI - 682 025. (ADDL.R4 IMPEADED AS PER ORDER IN IA NO.12560/2018 DATED 25/8/2023) W.P.(C)Nos.19351/2021 & Others 6 ADDL.R5: THE CENTRAL ARECANUT AND COCOA MARKETING AND PROCESSING CO-OPERATIVE LIMITED, REP.BY MANAGING DIRECTOR, VARANASHI, TOWERS, MISSION STREET, MANGALORE- 575 001. (ADDL.R5 IMPLEADED AS PER IA 12994/2018 DATED

BY ADVS. ASSISTANT SOLICITOR GENERAL SREELAL N. WARRIER, SC, CENTRAL BOARD OF EXCISE & CUSTOMS SMT.C.G.PREETHA, CGC SRI.B.HARRYLAL SMT.K.R.NAYANA NATH SRI.P.SHRIHARI SMT.K.RADHAMANI AMMA, SC, SPICES BOARD SRI.ANTONY MUKKATH, SC, SPICES BOARD SREELAL N. WARRIER, SC, CENTRAL BOARD OF EXCISE AMP CUSTOMS SRI.P.VIJAYAKUMAR DENNIS VARGHESE MANU S., ASG OF INDIA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION

ON 21.10.2022, ALONG WITH WP(C).19351/2021 AND CONN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN FRIDAY, THE 25TH DAY OF AUGUST 2023 / 3RD BHADRA, 1945 WP(C) NO. 21910 OF 2018 PETITIONER: NISHANT EXPORT, PUTHENTHODE, KANNAMALAY,KOCHI - 682 008. BY ADVS. SRI.KURIAN GEORGE KANNANTHANAM (SR.) SRI.ALEX GEORGE CHAMAPPARAYIL SRI.TONY GEORGE KANNANTHANAM RESPONDENTS:

1 UNION OF INDIA, REPRESENTED BY THE SECRETARY TO GOVERNMENT,MINISTRY OF COMMERCE AND INDUSTRY, (DEPARTMENT OF COMMERCE), NEW DELHI - 110 011. 2 THE DIRECTOR GENERAL OF FOREIGN TRADEMINISTRY OF COMMERCE AND INDUSTRY,(DEPARTMENT OF COMMERCE),NEW DELHI - 110 011. 3 SPICES BOARD,REPRESENTED BY ITS DIRECTOR(MARKETING), SUGANDHA BHAVAN, N.H. BY PASS, PALARIVATTOM.P.O., COCHIN-682025. (ADDL. R3 IS IMPLEADED AS PER ORDER DATED 18-03-2019 IN I.A. NO.13752/2018. BY ADVS. SMT.C.G.PREETHA, CGC MANU S., ASG OF INDIA SMT.C.G.PREETHA CGC SMT.K.RADHAMANI AMMA, SC, SPICES BOARD SRI.ANTONY MUKKATH, SC, SPICES BOARD Girish Kumar V DSGI S.MANU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION

ON 21.10.2022, ALONG WITH WP(C).19351/2021 AND CONN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN FRIDAY, THE 25TH DAY OF AUGUST 2023 / 3RD BHADRA, 1945 WP(C) NO. 22857 OF 2018 PETITIONER:

M/S INDIAN PRODUCTS PRIVATE LIMITED, RY.SY.NO.102/1, BUILDING NO.IX/721, 723 & 728,PUDUSSERY EAST VILALGE, PATHINALANGAL,WALAYAR DAM POST, PUDUSSERY PANCHAYATH,PALAKKAD-678 624, HAVING REGISTERED OFFICE AT 604, QUEENS CORNER 'A', 3 QUEENS ROAD, BANGALORE-560 001,REPRESENTED BY ITS DEPUTY GENERAL MANAGER MR.K.P.RAMESH KUMAR. BY ADVS. SRI.ANIL D. NAIR SRI ACHUT K.PADMARAJ SRI.M.BALAGOPAL SMT.R.DEVIKA ALAPPUZHA KUM.MEKHALA M.BENNY SRI.R.SREEJITH K.SRIKUMAR (SR.)

RESPONDENT:

1 DIRECTOR GENERAL OF FOREIGN TRADE, OFFICE OF THE DIRECTOR GENERAL OF FOREIGN TRADE,UDYOGABABHAVAN, NEW DELHI-110 001. 2 COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, WELLINGTON ISLAND, KOCHI-3. 3 UNION OF INDIA, REPRESENTED BY ITS SECRETARY,DEPARTMENT OF COMMERCE AND INDUSTRY,NEW DELHI-110 001. ADDL.R4. SPICES BOARD, REPREENTED BY ITS DIRECTOR(MARKETING) SUGANDHA BHAVAN, N.H. BY PASS, PALARIVATTOM, P.O. COCHIN - 682 025. (ADDL.R4 IMPLEADED AS PER ORDER IN IA 13457/2018 DATED 25/08/2023) BY ADVS. SMT.C.G.PREETHA, CGC SRI.RAJESH B., SC, CENTRAL BOARD OF EXCISE &

W.P.(C)Nos.19351/2021 & Others 9 CUSTOMS MANU S., ASG OF INDIA SMT.C.G.PREETHA CGC SMT.K.RADHAMANI AMMA, SC, SPICES BOARD SRI.ANTONY MUKKATH, SC, SPICES BOARD SRI.RAJESH B., SC, CENTRAL BOARD OF EXCISE AMP CUSTOMS DENNIS VARGHESE THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION

ON 21.10.2021, ALONG WITH WP(C).19351/2021 AND CONN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN FRIDAY, THE 25TH DAY OF AUGUST 2023 / 3RD BHADRA, 1945 WP(C) NO. 23023 OF 2018 PETITIONER:

M/S.KANCOR INGREDIENTS LTD., KANAKKAN KADAVU ROAD, ANGAMALLY SOUTH, KERALA- 683573, (HAVING REGISTERED OFFICER AT 5TH FLOOR, IMPERIUM 159, MAROL MA ROSHI ROAD, VIJAY NAGAR, ANDHERI EAST MUMBAI 400059) REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER MR.GEEMON KORAH BY ADVS. SRI.ANIL D. NAIR SRI.ACHUT K.PADMARAJ SRI.M.BALAGOPAL

SMT.R.DEVIKA ALAPPUZHA KUM.MEKHALA M.BENNY SRI.R.SREEJITH K.SRIKUMAR (SR.)

RESPONDENTS: 1 DIRECTOR GENERAL OF FOREIGN TRADE, OFFICE OF THE DIRECTOR GENERAL OF FOREIGN TRADE UDYOGABHAVAN, NEW DELHI-110011. 2 COMMISSIONER OF CUSTOMS, CUSTOM HOUSE, WELLINGTON ISLAND, KOCHI-3 3 UNION OF INDIA, REPRESENTED BY ITS SECRETARY, DEPARTMENT OF COMMERCE AND INDUSTRY NEW DELHI-110011. ADDL.R4. SPICES BOARD, REPRESENTED BY ITS DIRECTOR(MARKETING) SUGANDHA BHAVAN, N.H. BY PASS, PALARIVATTOM P.O. COCHIN - 682 025. (ADDL.R4 IS IMPLEADED AS PER IA 13750/2018 DATED BY ADVS. SMT.C.G.PREETHA, CGC SRI.RAJESH B., SC, CENTRAL BOARD OF EXCISE & CUSTOMS W.P.(C)Nos.19351/2021 & Others 11 MANU S., ASG OF INDIA SMT.C.G.PREETHA CGC SMT.K.RADHAMANI AMMA, SC, SPICES BOARD SRI.ANTONY MUKKATH, SC, SPICES BOARD SRI.RAJESH B., SC, CENTRAL BOARD OF EXCISE AMP CUSTOMS DSGI S.MANU THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION

ON 21.10.2022, ALONG WITH WP(C).19351/2021 AND CONN

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN FRIDAY, THE 25TH DAY OF AUGUST 2023 / 3RD BHADRA, 1945 WP(C) NO. 26804 OF 2021 PETITIONER: TRAVANCORE SOLVENTS AND OILS, 6/260(20), 2ND FLOOR, PALMLANDS BUILDING, BANK JUNCTION, ALUVA - 683101, REPRESENTED BY ITS PROPRIETOR, SHAFIEQUE AHAMED K.K. BY ADVS. JOHN VARGHESE SONU AUGUSTINE RESPONDENTS:

1 UNION OF INDIA, REPRESENTED BY ITS SECRETARY, MINISTRY OF FINANCE, DEPARTMENT OF REVENUE, (CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS), NORTH BLOCK, NEW DELHI - 110001. 2 DIRECTOR GENERAL OF FOREIGN TRADE,UDYOG BHAVAN, H- WING, GATE NO.2, MOULANA AZAD ROAD, NEW DELHI

- 110011. 3 CONSORTIUM OF BLACK PEPPER ORGANIZATION.*CONSORTIUM OF BLACK PEPPER ORGANISATION, C/O CODAGU PLANTERS ASSOCIATION (R), P.B.NO. 15, G.T. TOAD, MADIKERI, KODAGU KARNATAKA 571201, REPRESENTED BY ITS CO-ORDINATOR VISWANATH K.K. *(ADDL. R3 IS IMPLEADED AS PER ORDER DATED 4 ADDL.R4. THE UNITED PLANTERS ASSOCIATION OF SOUTHERN INDIA, 'GLENVIEW', COONOOR, NILIGIRIS DISTRICT, TAMIL NADU - 643 101 REPRESENTED BY ITS SECRETARY, MR.R.SANJITH (ADDL.R4 IS IMPLEADED AS PER ORDER DATED 14/6/22 IN IA NO.2/2022 OF WPC 26804/2021) BY ADVS. MANU S., ASG OF INDIA Girish Kumar V M.GOPIKRISHNAN NAMBIAR K.JOHN MATHAI JOSON MANAVALAN

W.P.(C)Nos.19351/2021 & Others 13 KURYAN THOMAS PAULOSE C. ABRAHAM RAJA KANNAN PRANOY HARILAL E.K.NANDAKUMAR (SR.) THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION

ON 21.10.2022, ALONG WITH WP(C).19351/2021 AND CONN

V.G.ARUN, J -------------------------- WP(C) Nos.19351/2021, 1067/2022, 1128/2022, ---------------------------- Dated this the 25th day of August 2023

JUDGMENT

The petitioners are in the business of importing spices and other articles. They are conducting the activities based on the Certificate of Importer- exporter Code issued by the Director General of Foreign Trade (DGFT), in accordance with Section 7 of the Foreign Trade (Development and Regulation) Act, 1992 ('the FT(D&R) Act' for short). Along with other spices, the petitioners are importing pepper also. The import of pepper was free under the Foreign Trade Policy 2015-2020. By Notification No.42/2015-20 dated revised, making import free only if the Cost Insurance and Freight (CIF) value is Rs.500/- and above per kilogram. The said notification was challenged by some of the importers and interim orders were granted staying the notification. W.P.(C)Nos.19351/2021 & Others 15 While so, the DGFT issued Notification No.50/2015-2020 dated 05/02/2018, exempting the

Minimum Import Price

(MIP) condition for imports under the Advance Authorisation

Scheme, if the import is for extraction of oleoresin for the purpose re-export. Thereafter, by Notification No.53/2015- 2020 dated 21/03/2018, the import of pepper was prohibited and made free, subject to the CIF value being above Rs.500/- per kg. Later, by Notification No.21/2015-20 dated 25/07/2018, exemption was granted for imports under the Advance Authorisation Scheme, imports by 100% Export Oriented Units (EOUs) and Units in the Special Economic Zone(SEZ).

2. The writ petitions are filed assailing the above

notifications on various grounds, including lack of competence of the DGFT, hostile discrimination and illegal restriction on the fundamental right to do business.

3. Heard Senior Advs. Kurien George Kannanthanam

and K.Sreekumar, along with Advs.Anil B.Nair, John Varghese and M.S.Sajeev Kumar for the petitioners, Senior Advocate S.V.Raju, the Additional Solicitor General of India assisted by Adv.S. Krishna, for the Union of India and the DGFT, Senior Advocate E.K.Nandakumar for the United Planters Association of Southern India, Adv Antony Mukkath for the Spices Board and Adv C.G.Preetha for the Consortium of Black Pepper Growers Organisation.

4. The learned Counsel for the petitioners referred to

Sections 3,5,6 and 19(3) of the FT(D&R) Act to contend that the DGFT is incompetent to issue the impugned notifications, as only the Central Government has the power to prohibit, restrict or otherwise regulate the import or export of goods. Though the DGFT is delegated with certain powers under the Act, Section 6(3) specifically excludes the exercise of powers under Sections 3,5,15,16 and 19. Moreover, by virtue of the notifications, the Foreign Trade Policy stands amended, the power for which is vested with the Central Government under Section 5 of the Act. To bolster the challenge based on lack of competence and excessive delegation, the decisions in State of U.P. and Others v. Hindustan Aluminium Corporation and Others [(1979) 3 SCC 229] and Avinder Singh and Others v. State of Punjab and Others [(1979)1 SCC 137] are pressed into service. W.P.(C)Nos.19351/2021 & Others 17

5. Referring to the Constitutional provisions, it is

pointed out that Article 53 of the Constitution vests the President with the executive power of the Union. The President can exercise that power directly or through subordinate officers, in accordance with the Constitution. As per Article 77, the orders and other instruments made and executed in the name of the President ought to be authenticated in the manner specified in the rules. It is contended that the DGFT was not authorised to issue the impugned notifications and the notifications are not authenticated in the manner stipulated in Article 77.

6. Relying on Section 19(3) of the FT(D&R) Act, it is

contended that, even though it is mandatory to place every Rule and Order made by the Central Government before each House of the Parliament, the impugned notifications were not placed before the Parliament and are therefore non est. It is argued that in Krishna Kumar Singh and Another v. State of Bihar and Others [(2017) 3 SCC 1], the Apex Court has held the failure to place Ordinances before the Houses of Legislature to be a serious infraction.

7. The notifications are challenged also on the ground

W.P.(C)Nos.19351/2021 & Others 18 that they are discriminatory, the MIP condition being made applicable only for imports by ordinary importers/traders, whereas imports under the Advance Authorisation Scheme, imports by 100% Export Oriented Units and Units in Special Economic Zones (SEZ) are exempted. It is contended that the right to equality guaranteed under Article 14 empowers the Constitutional Courts to step in whenever it is found that equals are being treated unequally. In support of this argument, reliance is placed on the judgement of the

Supreme Court in Modified Voluntary Retirement Scheme of 2002 of Azam Jahi Mill Workers Association v. National Textile Corporation Limited and Others [AIR 2021 SC 5686].

8. It is submitted that the price of pepper in the

International Market being much less than Rs.500/- per kg, implementation of the policy brought about through the notifications will make it impossible for the petitioners to import pepper to India. This in effect will violate their fundamental right to do business guaranteed under Article 19(1)(g) of the Constitution and militate against the doctrine of proportionality. Support for the argument is sought to be drawn from the judgments in Modern Dental W.P.(C)Nos.19351/2021 & Others 19 College and Research Centre and Others v. State of Madhya Pradesh and Others [(2016) 7 SCC 353] and Justice K.S.Puttaswamy(Retd.) and Another v. Union of India and Others [(2019) 1 SCC 1].

9. It is submitted that, apart from the minimum CIF

value of Rs.500/-, the notifications also require the piperine content of the imported pepper to be 6%, while under the Food Safety and Standards Act,2006 ('the FSS Act' for short), the piperine content for light black pepper is fixed at 4%. Here the contention is that, since Section 25 of the FSS Act makes the standards laid down by the Food Authority applicable for imports and Section 89 gives overriding effect to the provisions of the FSS Act, the notifications, insofar as they prescribe 6% piperine content, are void.

10. Learned Assistant Solicitor General, ably supported

by the learned Counsel appearing for other respondents, submitted that the import of low quality pepper from countries like Sri Lanka and Vietnam at cheap rates had led to decline in the value of domestic pepper and resulted in the issuance of the impugned notifications. Further, the reW.P.(C)Nos.19351/2021 & Others 20 export of low quality pepper from India started affecting the credibility of Indian Black Pepper in the international market also. The impugned notifications were issued to remedy the situation.

11. The challenge on the ground of competence of the

DGFT is met by drawing attention to the File Notes produced as Ext.R1(a) in W.P.(C) No.26804 of 2021, wherein reference is made to the representations received from domestic pepper growers and organisations representing the farmers, ventilating their grievance with respect to the import of cheap quality pepper to India. It is also noted that the matter can be taken up by the DGFT for notifying the MIP of pepper after obtaining approval from the Hon'ble Minister for Commerce and Industries and on receipt of recommendation from the Ministry of Agriculture and Farmers Welfare. It is submitted that the File Notes on the subject produced as Ext.R1(b) would reveals that the decision to issue the notifications was taken after discussion with the Hon'ble Minister. It is submitted that the DGFT is a regulator of the Foreign Trade Policy and decisions with respect to the regulations are taken by the concerned Administrative Ministry/Department of the Central W.P.(C)Nos.19351/2021 & Others 21 Government. The role of the DGFT is restricted to the issuance of the notifications as per the decision of the Government of India. The notifications are in fact are issued by the Central Government and signed by the DGFT in accordance with the Government of India Authentication (Orders and other Instruments) Rules, 2002. By virtue of the said Rules, the orders and other instruments relating to the Directorate General of Foreign Trade, made and executed in the name of the President of India, can be authenticated by the DGFT, Additional DGFT, Export Commissioner or Joint DGFT. Attention is also drawn to the

Order dated 24/03/1993 issued by the Ministry of

Commerce, whereby sanction is accorded by the President enabling the DGFT to authenticate orders/notifications/other instruments in the name of the Central Government. It is contended that, the competence of the DGFT to issue notifications on behalf of the Central Government is no longer res integra in view of the Apex Court decision in Union of India & Others v. Agricas LLP and Others [2021(14) SCC 341] and similar view was taken by a Division Bench of this Court in DGFT & Another v. Mustafa Traders & Another [2016 SCC OnLine W.P.(C)Nos.19351/2021 & Others 22 Ker.11786] and the High Court of Madras in

M/s.Hira Traders represented by its partner Shri.Haji Sumar Kudus v. DGFT & Others [W.P.(C) No.17387 of 2018 and connected cases].

12. In answer to the contention based on the provisions of the FSS Act, it is argued that Section 89 of the FSS Act can have overriding effect only over other food related laws.

13. It is contended that the policy decision to fix CIF

value and MIP for pepper was taken by the Government after due deliberation. Being so, the power of judicial review cannot be extended to determine the correctness of such policy decision or to indulge in the exercise of finding out whether there could be a more appropriate or better alternative. To buttress this argument,the decisions in Parisons Agrotech Private Ltd. and Another v. Union of India and Others [2015 (9) SCC 657] and Marine Fins, Kochi v. Union of India and Others [2018 (3) KLT 71] are pressed into service.

14. Responding to the contention that the notifications

are non est for reason of failure to lay them before the W.P.(C)Nos.19351/2021 & Others 23 Parliament, it is argued that, non-laying of notification before both Houses of Parliament will not result in nullification of the notification. Support for this proposition is sought to be drawn from Atlas Cycle Industries Ltd. and Others v. The State of Haryana [1979 (2) SCC 196].

15. Learned Senior Counsel appearing for the United

Planters Association of Southern India (UPASI) and the learned Counsel for the other respondents adopted the arguments of the learned Additional Solicitor General. It is argued that the notifications are in tune with the fiscal policy of the Government and are not amenable to judicial review.

16. Indisputably, the decision to regulate the import of

black pepper is the outcome of the Government's policy to prevent the influx of cheap quality pepper into the domestic market, thereby affecting the domestic growers. It is settled law that the wisdom and advisability of economic policies are not amenable to judicial review, unless the policy is demonstrably contrary to any statutory provision or the Constitution. In other words, it is not for the courts to consider relative merits of different economic policies and decide whether a wiser or better one can be evolved. In this W.P.(C)Nos.19351/2021 & Others 24 context it is worthwhile to read the following observation of the Apex court in Bajaj Hindustan Ltd. v. Sir Shadi Lal Enterprises Ltd. & Another [(2011) 1 SCC 640]. 41. The power to lay policy by executive decisions or by legislation includes power to withdraw the same unless it is by mala fide exercise of power, or the decision or action taken is in abuse of power. The doctrine of legitimate expectation plays no role when the appropriate authority is empowered to take a decision by an executive policy or under law. The court leaves the authority to decide its full range of choice within the executive or legislative power. In matters of economic policy, it is settled law that the court gives a large leeway to the executive and the legislature. Granting licences for import or export is an executive or legislative policy. The Government would take diverse factors for formulating the policy in the overall larger interest of the economy of the country. When the Government is satisfied that change in the policy was necessary in the public interest it would be entitled to revise the policy and lay down a new policy. W.P.(C)Nos.19351/2021 & Others 25 A Division Bench of this Court has also held that, so long as the Government discharges its burden of proving that the notification is issued in public interest, courts cannot judicially review and determine the correctness of the policy decision, even by bringing Article 14 of the Constitution into play [see Marine Fins, Kochi(supra)]. Therefore, I proceed to consider the challenge against the notifications, conscious of the limited scope of judicial review in matters of economic policy.

17. The first ground of challenge regarding the

competence of the DGFT to issue the notifications is put forth with reference to Sections 3,5 and 6 of the FT (D&R) Act, extracted hereunder; "3. Powers to make provisions relating to imports and exports.-(1) The Central Government may, by Order published in the Official Gazette, make provision for the development and regulation of foreign trade by facilitating imports and increasing exports.

(2) The Central Government may also, by Order

published in the Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under W.P.(C)Nos.19351/2021 & Others 26 the Order, the import or export of goods or services or technology: Provided that the provisions of this sub-section shall be applicable, in case of import or export of services or technology, only when the service or technology provider is availing benefits under the foreign trade policy or is dealing with specified services or specified technologies.

(3) All goods to which any Order under sub-

section (2) applies shall be deemed to be goods the import or export of which has been prohibited under Section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

(4) Without prejudice to anything contained in any

other law, rule, regulation, notification or order, no permit or licence shall be necessary for import or export of any goods, goods, nor any goods shall be prohibited for import or export except, as may be required under this Act, or rules or orders made thereunder.

5. Foreign Trade Policy.-The Central

Government may, from time to time, formulate and announce, by notification in the Official Gazette, the foreign trade policy and may also, in like manner, amend that policy: W.P.(C)Nos.19351/2021 & Others 27 Provided that the Central Government may direct that, in respect of the Special Economic Zones, the foreign trade policy shall apply to the goods, services and technology with such exceptions, modifications and adaptations, as may be specified by it by notification in the Official Gazette.

6. Appointment of Director General and his functions.-(1) The Central Government may appoint any person to be the Director General of Foreign Trade for the

purposes of this Act.

(2) The Director General shall advise the Central Government in the formulation of the foreign trade policy and shall be responsible for carrying out that policy.

(3) The Central Government may, by Order

published in the Official Gazette, direct that any power exercisable by it under this Act (other than the powers under Sections 3, 5, 15, 16 and 19) may also be exercised, in such cases and subject to such conditions, by the Director General or such other officer subordinate to the Director General, as may be specified in the Order.

18. Going by Section 3 of the Act, the power to make

provision for the development and regulation of foreign trade by facilitating imports and increasing exports and for prohibiting, restricting or regulating import or export of W.P.(C)Nos.19351/2021 & Others 28 goods is vested with the Central Government. Likewise, as per Section 5, the power to formulate, announce and amend the foreign trade policy is vested with the Central Government. Under Section 6(2), the role of the DGFT is to advise the Central Government in the formulation of the foreign trade policy and carry out that policy. By virtue of Section 6(3), the Director General or such other officer subordinate to the Director General can be conferred with

the authority to exercise any power under the Act by Order

published in the official Gazette, except the powers under Sections 3, 5,15,16 and 19. The power to take decisions with respect to import, export and foreign trade policy being thus vested with the Central Government, the short question is whether the impugned notifications were issued by the DGFT on his own, or pursuant to the decision of the Central Government.

19. The notifications explicitly declare that they are issued

by the Central Government in exercise of powers conferred by Section 3 of FT(D&R) Act, 1992, read with paragraphs 1.02 and 2.01 of the Foreign Trade Policy. It is also pertinent to note that, vide S.O.211(E) dated 16.01.2002, the President of India, in exercise of the powers conferred by W.P.(C)Nos.19351/2021 & Others 29 clause(2) of Article 77 of the Constitution, has issued the Authentication(Orders and Other Instruments) Rules, 2002. By virtue of the said rules, the orders and other related instruments relating to the Directorate General of Foreign Trade made executed by the President can be authenticated by the DGFT, Additional DGFT, Export Commissioner or the Joint DGFT. In Agricas LLP (supra) the Apex Court, answered the challenge against the competence of the DGFT to issue an order amending the EXIM policy in the following manner; 15. At the outset, we must record that the importers, and in our opinion rightly, have not raised the contention that DGFT could not have notified the impugned notifications. The notifications themselves record that they were published by the Ministry of Commerce and Industry, Department of Commerce, Directorate General of Foreign Trade. The first paragraph of the notification states that they had been issued by the Central Government in exercise of powers conferred under Article 77 of the Constitution. Clearly, the notifications were issued by W.P.(C)Nos.19351/2021 & Others 30 the Central Government, and not DGFT that had performed the ministerial act of publication. The decision to amend and issue the notification was of the Central Government. Neither Section 3(2) nor Section 6(3) of the FTDR Act was violated. This Court in Delhi International Airport Ltd. v. International Lease Finance Corpiratuib & Others [(2015) 8 SCC 446] , had referred to Articles 77 and 166 of the Constitution and held that the Constitution stipulates that whenever executive action is taken by way of an

order or instrument it shall be expressed to be taken

in the name of the President and Governor in whose name the executive power of the Union and the States, respectively, are vested. Article 77 does not provide for delegation of any power, albeit under sub-section (3) of Article 77, the President is to make Rules for more convenient transaction of business and allocation of same amongst Ministers. Under the Government of India (Transaction of Business) Rules, 1961, the Government business is divided amongst Ministers and specific functions are allocated to different Ministries. The Director General W.P.(C)Nos.19351/2021 & Others 31 of Foreign Trade is an ex officio Additional Secretary in the Government of India and is appointed by the Central Government under sub-section (1) to Section 6 of the FTDR Act to advise the Central Government in formulation and carrying out the Foreign Trade Policy. Wherefore, even the website of the Ministry of Commerce and Industry, Department of Commerce, states that DGFT is an agent of the Central Government and attached office to it. Further, clause

(2) of Article 77 provides that validity of an order or

instrument made or executed in the name of the President, authenticated in the manner specified in the Rules made by the President, shall not be called in question on the ground that it is not an order or an instrument made or executed by the President. Therefore, the contention of issuance of the impugned notification sans authority, cannot be sustained. As evident from the file notes pertaining to the impugned notifications, the decision to issue the notification was taken after discussing the matter with the Minister. Hence, there is substance in the contention that the notifications were W.P.(C)Nos.19351/2021 & Others 32 issued by the Central Government in exercise of the powers conferred under Section 3 of the FT(D&R) Act and the DGFT had only undertaken the ministerial act of publishing the notification. In such circumstances, mere publication of the notifications by the DGFT cannot lead to the presumption that the notifications were issued without the concurrence of the Central Government. Therefore, the challenge on the premise that the notifications were issued by the DGFT and not the Central Government is unsustainable.

20. The next contention is that the impugned

notifications are non est for reason of failure to lay them before both Houses of Parliament, despite the specific requirement in Section 19(3) of the FT(D&R) Act. Being of relevance, Section 19(3) is extracted hereunder; "19. Power to make rules.-(1)The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act. (2)xxxxxx

(3) Every rule and every Order made by the Central

Government under this Act shall be laid, as soon as may be after it is made, before each House of W.P.(C)Nos.19351/2021 & Others 33 Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or the Order or both Houses agree that the rule or the

Order should not be made, the rule or the Order, as

the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or the

Order.

No doubt, the notifications are to be placed before each House of the Parliament. Once the matter is placed for consideration, the Houses may agree or disagree with the modifications suggested. In Krishna Kumar Singh (supra), the challenge was against a series of ordinances promulgated by the Governor of Bihar in purported exercise of the power under Article 213 of the Constitution of India.

After eloborate consideration, the Constitution Bench held

that, since Article 213(2) mandates the laying of the Ordinances before the Legislative Assembly of the State, W.P.(C)Nos.19351/2021 & Others 34 failure to follow the procedure amounts to an abuse of the constitutional process and dereliction of the constitutional obligation. Constitution Bench made the following observations with respect to the placing of the delegated legislation; 98. xxxxxx In the case of delegated legislation, parliamentary or State enactments may provide a requirement of laying subordinate legislation before the legislature. It is well settled that a requirement of merely laying subordinate legislation before the

House of the legislature is directory. But where a disapproval of subordinate legislation is contemplated, such a requirement is mandatory.

21. While on the subject, it is essential to note that, as far

as the case at hand is concerned, Section 19(3), the consequence for non-compliance with the requirement of placing the order or rule before both Houses of Parliament is not provided. The impact of non-laying, when no consequence for non-compliance is provided in the statute, was considered by the Apex Court in Atlas Cycle Industries (supra). Therein the appellants had challenged their prosecution for offences under the Essential Commodities Act, 1955 on the ground that the Control Order and the Notification, which formed the basis of W.P.(C)Nos.19351/2021 & Others 35 their prosecution, did not have the force of law as they had not been laid before the Houses of Parliament as required under Section 3(6) of the Essential Commodities Act. The respondents conceded that the notification had not been placed before both Houses of Parliament, but contended that the provisions of sub- section (6) of Section 3 of the Act, requiring the placing of the

order were directory and not mandatory and the omission to

comply with that requirement will not have the effect of invalidating the notification. Along with other factors pertaining to Section 3(6) of the Essential Commodities Act, the Apex Court took note of the absence of consequence of non-laying of the orders before both Houses of the Parliament, and that the requirement of laying the order before both Houses of the Parliament is not a condition precedent. Based on the above factors and relying on precedents, the following conclusion was arrived at; 32. From the foregoing discussion, it inevitably follows that the Legislature never intended that non-compliance with the requirement of laying as envisaged by sub-section

(6) of Section 3 of the Act should render the order void.

Consequently non-laying of the aforesaid notification fixing the maximum selling prices of various categories of iron and steel including the commodity in question before both W.P.(C)Nos.19351/2021 & Others 36 Houses of Parliament cannot result in nullification of the notification. Accordingly, we answer the aforesaid question in the negative. In view of this answer, it is not necessary to deal with the other contention raised by the respondent to the effect that the aforesaid notification being of a subsidiary character, it was not necessary to lay it before both Houses of Parliament to make it valid.

22. Pertinently, Section 19(3) of the FT(D&R) Act also does

not envisage the placing of the Orders and Rules before the Parliament to be a condition precedent. The provision also does not provide any consequence for non-compliance with the requirement. As such, the requirement can be perceived only as directory. Being so, its non-compliance cannot result in nullification of the notifications.

23. The next challenge is against the fixing of minimum

piperine content of black pepper at 6%, contrary to the prescription of 4% in the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011. According to the petitioners, Section 25 of the FSS Act having made all imports of articles of food subject to that Act and Section 89 having given an overriding effect to the Act, the notification, to the extent it prescribes the piperine content as W.P.(C)Nos.19351/2021 & Others 37 6%, is void. The contention based on Section 25 cannot be entertained, since Section 25(1)(ii) stipulates that, no article of food, for the import of which a licence is required under any Act or Rules or Regulations, shall be imported except in accordance with the conditions of that licence. The petitioners are importing articles on the strength of the Importer-exporter Code Number issued under Section 7 of the FT(D&R) Act. As such they are governed by the orders and notifications issued in accordance with the provisions of the Act governing the issuance of their licences.

24. With respect to the contention based on Section 89, it is

to be noted that the overriding effect of the FSS Act is confined to other food related laws. Irrefutably, the FT(D&R) Act is not a food related law for the FSS Act to have an overriding effect. Yet another relevant aspect is that, under the impugned notifications, the piperine content of light black pepper berries imported into India under Advance Authorisation Scheme for oleoresin alone is fixed as 6%. As the pepper imported under the Advance Authorisation Scheme is used for manufacturing oleoresin for the purpose of export, the article of food is not for consumption in India. Hence, Section 25 of the FSS Act is not attracted. W.P.(C)Nos.19351/2021 & Others 38

25. The contention regarding hostile discrimination based

on the exemption from minimum CIF value of Rs.500/- granted to imports under Advance Authorisation Scheme, imports by 100% Export Oriented Units and Units in the Special Economic Zone, cannot also be sustained. It is to be noted that the entire quantity of pepper imported by the above three category of traders are exported whereas pepper imported by importers falling outside the categories is consumed in India itself. within the country. As such, there is clear distinction between the exempted category and the other importers. It is trite that only similarly circumstanced persons are entitled to equal treatment. Moreover, Article 14 will not come into play when the distinguishing rationale is based on justifiable reasons and the choice of differentiating one set of persons from the another has a reasonable nexus to the objective sought to be achieved. The objective behind the impugned notifications is to prevent the import of cheap quality pepper into India. As such, the differentiation between two classes of importers has nexus with the objective.

26. I find no merit in the challenge based on Article 19(1)

(g) also, since the effect of the notifications is only to restrict the

import of black pepper and not to prohibit its import. The law W.P.(C)Nos.19351/2021 & Others 39 imposing restrictions has to be treated as proportional if it is meant to achieve a proper purpose and the measures taken are rationally connected to the purpose. Applying the proportionality principle, the restriction against import of pepper is found to be justified and unassailable. In the result, the writ petitions are dismissed. Sd/- V.G.ARUN JUDGE dpk

W.P.(C)Nos.19351/2021 & Others 40 APPENDIX OF WP(C) 1067/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE NOTIFICATION NO.21/2015-2020 DATED 25.07.2018 ISSUED BY THE 2ND RESPONDENT. Exhibit P2 TRUE COPY OF THE JUDGMENT IN WA NO.1687/2018 DATED 25.09.2018 OF THE DIVISION BENCH OF THIS HON'BLE COURT. Exhibit P3 TRUE COPY OF THE INTERIM ORDER DATED 26.11.2018 IN WPC NO.28028/2018. Exhibit P4 TRUE COPY OF THE INTERIM ORDER DATED 07.12.2021 IN WPC NO.26804 OF 20219A) OF THE HON'BLE COURT OF KERALA. W.P.(C)Nos.19351/2021 & Others 41 APPENDIX OF WP(C) 1128/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE NOTIFICATION NO.21/2015-2020 DATED 25.07.2018 ISSUED BY THE 2ND RESPONDENT. Exhibit P2 TRUE COPY OF THE JUDGMENT IN WA. NO.1687/2018 DATED 25.09.2018 OF THE DIVISION BENCH OF THIS HON'BLE COURT. Exhibit P3 TRUE COPY OF THE INTERIM ORDER DATED 26.11.2018 IN WP(C) NO. 28028/2018. Exhibit P4 TRUE COPY OF THE INTERIM ORDER DATED 07.12.2021 IN WP(C) NO. 26804 OF 2021 (A), OF THE HON'BLE COURT OF KERALA. W.P.(C)Nos.19351/2021 & Others 42 APPENDIX OF WP(C) 1119/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE NOTIFICATION NO.21/2015-2020 DATED 25.7.2018 ISSUED BY THE 2ND RESPONDENT. Exhibit P2 TRUE COPY OF THE JUDGMENT IN W.A.NO.1684/2018 DATED 25.9.2018 OF THE DIVISION BENCH OF THIS HON'BLE COURT. Exhibit P3 TRUE COPY OF THE INTERIM ORDER DATED 26.11.2018 IN WP(C) NO.28028/2018. Exhibit P4 TRUE COPY OF THE INTERIM ORDER DATED 7.12.2021 IN WP(C) NO.26804 OF 2021 (A), OF THE HON'BLE COURT OF KERALA. W.P.(C)Nos.19351/2021 & Others 43 APPENDIX OF WP(C) 15917/2018 PETITIONER EXHIBITS EXHIBIT-P1: TRUE COPY OF THE ADVOCATE AUTHORIZATION NUMBER 1010059873 DATED 17.01.2018 ISSUED TO THE 1ST PETITIONER. EXHIBIT-P1(A): TRUE COPY OF THE ADVANCE AUTHORIZATION NUMBER 1010059902 DATED 07.03.2018 ISSUED TO THE 2ND PETITIONER. EXHIBIT-P2: TRUE COPY OF NOTIFICATION NO.53/2015- 2020 DATED 21.3.2018. EXHIBIT-P3: TRUE COPY OF THE ORDER DATED 23.03.2018

IN W.P.NO.5949/2018. RESPONDENTS EXHIBITS: EXT.R1(A): COPY OF THE REPRESENTATION RECEIVED FROM M/S.SYNTHITE INDUSTRIES. EXT.R1(B): COPY OF THE NOTIFICATION DATED 5/2/2018 EXT.R1(C): COPY OF THE MONTH WISE ESTIMATED

W.P.(C)Nos.19351/2021 & Others 44 APPENDIX OF WP(C) 21910/2018 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE CERTIFICATE DATED 4.9.2014 ISSUED BY THE 2ND RESPONDENT. EXHIBIT P2 TRUE COPY OF THE CERTIFICATE DATED 29.3.2016 ISSUED BY THE CENTRAL GOVERNMENT. EXHIBIT P3 TRUE COPY OF THE PURCHASE ORDER DATED 16.11.2017 FOR THE IMPORT OF 27 METRIC TONES OF PEPPER. EXHIBIT P4 TRUE COPY OF THE NOTIFICATION DAGED 6.12.2017 ISSUED BY THE 1ST RESPONDENT. EXHIBIT P5 TRUE COPY OF THE ORDER DAETD 18.5.2018 IN WPC NO. 1481/2018 OF THE HON'BLE COURT OF DELHI. EXHIBIT P6 TRUE COPY OF THE NOTIFICATION DATED 5.2.2018 ISSUED BY THE 1ST RESPONDENT. EXHIBIT P7 TRUE COPY OF THE NOTIFICATION DATED 21.3.2018 ISSUED BY THE 1ST RESPONDENT. EXHIBIT P8 TRUE COPY OF THE REPRESENTATION DATED 3.1.2018 FROM THE PETITIONER. EXHIBIT P9 TRUE COPY OF THE REPRESENTATION DATED 25.1.2018 FROM THE PETITIONER. EXHIBIT P10 TRUE COPY OF THE REPRESENTATION DATED 25.1.2018 FROM THE PETITIONER. EXHIBIT P11 TRUE COPY OF THE REPRESENTATION DATED 29.1.2018 FROM THE PETITIONER. EXHIBIT P12 TRUE COPY OF THE INSPECTION CERTIFICATE DATED 19.12.2017 FOR EXPORT OF BLACK PEPPER. EXHIBIT P13 TRUE COPY OF THE DAILY MARKET REPORT

FROM SEPT. 2017 TO JUNE 2018. RESPONDENTS' EXHIBITS: EXT.R1(A): COPY OF THE ORDER NO.1- BY THE MINISTRY OF COMMERCE EXT.R1(B): COPY OF THE NOTIFICATION W.P.(C)Nos.19351/2021 & Others 45 DATED 27/7/2017 SIGNED BY THE DIRECTOR, DEPARTENT OF COMMERCE, MINISTRY OF COMMERCE & INDUSTRY. EXT.R1(C); COPY OF THE NOTIFICATION NO.S.O.211(E) DATED 16/02/2002 NOTIFYING THE AUTHENTICATION (ORDERS AND OTHER INSTRUMENTS) RULES, 2002. EXT.R1(D): COPY OF THE NOTIFICATION NO.21/2015-2-2 DATED 25/07/2018.

W.P.(C)Nos.19351/2021 & Others 46 APPENDIX OF WP(C) 22857/2018 PETITIONER EXHIBITS EXT.P1: TRUE COPY OF THE GREEN CARD DATED 06.04.2015 ISSUED TO THE PETITIONER. EXT.P2: TRUE COPY OF THE NOTIFICATION NO.42/2015-20 DATED 06.12.2017. EXT.P3: TRUE COPY OF THE NOTIFICATION NO.50/2015-20 DATED 05.02.2018.

EXT.P4: TRUE COPY OF THE ADJUDICATION ORDER

NOS.COC-CUSTOMS-000-COM-38/17-18 DATED 12.01.2018.

EXT.P4(A): TRUE COPY OF THE ADJUDICATION ORDER

NOS.COC-CUSTOMS-000-COM-47/17-18 DATED 23.01.2018.

EXT.P4(B): TRUE COPY OF THE ADJUDICATION ORDER

NOS.COC-CUSTOMS-000-COM-52/17-18 DATED 02.02.2018.

EXT.P4(C): TRUE COPY OF THE ADJUDICATION ORDER

NOS.COC-CUSTOMS-000-COM-57/17-18 DATED 06.02.2018.

EXT.P4(D) TRUE COPY OF THE ADJUDICATION ORDER

NOS.COC-CUSTOMS-000-COM-61/17-18 DATED 14.02.2018.

EXT.P4(E): TRUE COPY OF THE ADJUDICATION ORDER

NOS.COC-CUSTOMS-000-COM-78/17-18 DATED 13.03.2018. EXT.P5: TRUE COPY OF NOTIFICATION NO.53/2015- 2020 DATED 21.03.2018. EXT.P6: TRUE COPY OF THE ORDER DATED 23.03.2018 IN WP(C)NO.5949 OF 2018. Exhibit P7 TRUE COPY OF THE NOTIFICATION NO.36/2015-2020 DATED 17/1/2017 ISSUED BY THE 1ST RESPONDENT. Exhibit P8 TRUE COPY OF THE NOTIFICATION NO.21/2015-2020 DATED 25/7/2018 ISSUED BY THE 1ST RESPONDENT. Exhibit P9 TRUE COPY OF THE FOREIGN TRADE (EXEMPTION FROM APPLICATION OF RULES IN W.P.(C)Nos.19351/2021 &

Others 47 CERTAIN CASES) ORDER, 1993. Exhibit P9 A TRUE COPY OF THE FOREIGN TRADE (EXEMPTION FROM APPLICATION OF RULES IN CERTAIN CASES)AMENDMENT ORDER, 2017 Exhibit P10 TRUE COPY OF THE IMPORTS AND EXPORTS (CONTROL) ACT, 1947 Exhibit P10 A TRUE COPY OF THE IMPORTS AND EXPORTS (CONTROL) ACT, 1955 Exhibit P11 TRUE COPY OF THE PLANT QUARANTINE(REGULATION OF IMPORT INTO INDIA) ORDER, 2003. Exhibit P11 A TRUE COPY OF THE BUREAU OF INDIAN STANDARDS KITCHEN APPLIANCES (QUALITY CONTROL) ORDER, 2018 Exhibit P11 B TRUE COPY OF THE TOYS (QUALITY CONTROL)

ORDER, 2020

Exhibit P11 C TRUE COPY OF THE SEEDS (CONTROL) ORDER, 1983. Exhibit P12 TRUE COPY OF THE JUDGMENT OF THE HON'BLE HIGH COURT OF CALCUTTA IN THE CASE OF BIMAL KUMAR MODI VS.UNION OF INDIA REPORTED IN 2014 ELT (306) 97

Exhibit P13 TRUE COPY OF THE NOTIFICATION NO.5 (RE- 2008)/2004-2009 DATED 15/4/2008 Exhibit P13 A TRUE COPY OF THE NOTIFICATION NO.15(RE- 2008)/2004-2009 DATED 4/6/2008 Exhibit P13 B TRUE COPY OF THE NOTIFICATION NO.50(RE- 2008)/2004-2009 DATED 23/10/2008 Exhibit P13 C TRUE COPY OF THE NOTIFICATION NO.53(RE- 2013)/2009-2014 DATED 2/12/2013 Exhibit P13 D TRUE COPY OF THE NOTIFICATION NO.99(RE- 2013)/2009-2014 DATED 20/11/2014 Exhibit P13 E TRUE COPY OF THE NOTIFICATION NO.17(RE- 2008)/2015-2020 DATED 6/8/2015 Exhibit P13 F TRUE COPY OF THE NOTIFICATION NO.7 RE- 2015-20 DATED 7/6/2019 Exhibit P14 TRUE COPY OF THE NOTIFICATION NO.2/2015- 2020 DATED 26/4/2021 ISSUED BY THE 1ST RESPONDENT. Exhibit P15 TRUE COPY OF THE JUDGMENT OF THE HON'BLE W.P.(C)Nos.19351/2021 & Others 48

HIGH COURT OF MADRAS IN THE CASE OF S.MIRA COMMODITIES PVT. LTD VS.UNION OF INDIA REPORTED IN 2009(235) E.L.T. 423 (MAD.)

W.P.(C)Nos.19351/2021 & Others 49 APPENDIX OF WP(C) 23023/2018 PETITIONER EXHIBITS EXT.P1 TRUE COPY OF THE ADVANCE

AUTHORIZATION NUMBER 1010059873 DATED 17.01.2018 ISSUED TO THE 1ST PETITIONER. EXT.P2 TRUE COPY OF NOTIFICATION NO.42/2015- 2020 DATED 06.12.2017. EXT.P3 TRUE COPY OF NOTIFICATION NO.50/2015- 2020 DATED 05.02.2018. EXT.P4 TRUE COPY OF NOTIFICATION NO.53/2015- 2020 DATED 21.03.2018. EXT.P5. TRUE COPY OF THE ORDER DATED 23.03.2018 IN W.P.NO.5949 OF 2018. Exhibit P6 TRUE COPY OF THE NOTIFICATION NO.36/2015-2020 DATED 17-01-2017 ISSUED BY THE 1ST RESPONDENT. Exhibit P7 TRUE COPY OF THE NOTIFICATION NO.21/2015-2020 DATED 25-07-2018 ISSUED BY THE 1ST RESPONDENT. Exhibit P8 TRUE COPY OF THE FOREIGN TRADE (EXEMPTION FROM APPLICATION OF RULES IN CERTAIN CASES) ORDER, 1993. Exhibit P8(A) TRUE COPY OF THE FOREIGN TRADE (EXEMPTION FROM APPLICATION OF RULES IN CERTAIN CASES) AMENDMENT ORDER, 2017. Exhibit P9 TRUE COPY OF THE IMPORTS AND EXPORTS (CONTROL) ACT, 1947. Exhibit P9(A) TRUE COPY OF THE IMPORTS (CONTROL)

ORDER, 1955.

Exhibit P10 TRUE COPY OF THE PLANT QUARANTINE (REGULATION OF IMPORT INTO INDIA) ORDER, 2003. Exhibit P10(A) TRUE COPY OF THE BUREAU OF INDIAN STANDARDS KITCHEN APPLIANCES (QUALITY CONTROL) ORDER, 2018. Exhibit P10(B) TRUE COPY OF THE TOYS (QUALITY CONTROL)

ORDER, 2020.

Exhibit P10(C) TRUE COPY OF THE SEEDS (CONTROL) ORDER, W.P.(C)Nos.19351/2021 & Others 50 1983. Exhibit P11 TRUE COPY OF THE JUDGMENT OF THE HON'BLE HIGH COURT OF CULCUTTA IN THE CASE OF BIMAL KUMAR MODI VS. UNION OF INDIA REPORTED IN 2014 ELT (306)97.

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TRUE COPY OF THE NOTIFICATION NO.53(RE- 2013)/2009-2014 DATED 02-12-2013. Exhibit P12(D) TRUE COPY OF THE NOTIFICATION NO.99 (RE-2013)/2009-2014 DATED 20-11-2014. Exhibit P12(E) TRUE COPY OF THE NOTIFICATION NO.17/2015-20 DATED 06-08-2015. Exhibit P12(F) TRUE COPY OF THE NOTIFICATION NO.7/2015- 20 DATED 07-06-2019. Exhibit P13 TRUE COPY OF THE NOTIFICATION NO.2/2015- 2020 DATED 26-04-2021 ISSUED BY THE 1ST RESPONDENT. Exhibit P14 TRUE COPY OF THE JUDGMENT OF THE HON'BLE

HIGH COURT OF MADRAS IN THE CASE OF S.MIRA COMMODITIES PVT. LTD. VS. UNION OF INDIA REPORTED IN 2009 (235) E.L.T.423 (MAD.)

W.P.(C)Nos.19351/2021 & Others 51 APPENDIX OF WP(C) 26804/2021 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE NOTIFICATION NO. THE 2ND RESPONDENT. Exhibit P2 TRUE COPY OF THE JUDGMENT DATED 25.09.2018 IN W.A NO. 1687/2018 OF THIS HON'BLE COURT. Exhibit P3 TRUE COPY OF THE ORDER OF THIS HON'BLE COURT DATED 26.11.2018 IN WP(C) NO. Exhibit R1(a) True copy of the file noting dated 04.12.2017 Exhibit P4 TRUE COPY OF THE REPRESENTATION DATED 06.07.2021 ADDRESSED TO THE 2ND RESPONDENT BY THE PETITIONER. Exhibit R1(b) True copy of the file noting issued by Joint Secretary, Ministry of Commerce and Industry dated 05.12.2017 Exhibit R1(c) True copy of proposal issued by Dy.DGFT dated 04.12.2018 Exhibit R1(d) True copy of the information of papers laid in Lok Sabha depicting S.O. 4883(E) published in Gazette of India dated 13.02.2019 Exhibit P5 TRUE COPY OF S.O. 4883 (E) DATED 17.09.2018 NOTIFICATION NO. 33/2015-2020. W.P.(C)Nos.19351/2021 & Others 52 APPENDIX OF WP(C) 19351/2021 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF CERTIFICATE OF IMPORTER- EXPORTER CQDE (IEC) DATED 20.02.2014.

Exhibit P2 TRUE COPY OF THE NOTIFICATION NO.Exhibit

2020 DATED 21.03.2018. Exhibit P5 TRUE COPY OF THE ORDER OF THE HON'BLE HIGH COURT OF KERALA IN WP.NO. 5940, 10655,14970,15917, 21910,22857 & 23023 OF 2018 DATED 19.07.2018. Exhibit P6 A TRUE COPY OF THE ORDER OF THE HON'BLE HIGH COURT OF KERALA IN WP.

NO.23666 OF 2020 DATED 08.12.2020. Exhibit P7 A TRUE COPY OF THE ORDER PLACED FOR IMPORT OF PEPPER. RESPONDENT ANNEXURES Annexure R1(A) TRUE COPY OF THE RELEVANT PROVISIONS OF GOVERNMENT OF INDIA AUTHENTICATION (ORDERS AND OTHER INSTRUMENTS) RULES 2002, NOTIFICATION S.O.211(E) DATED 16.02.2002.