



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-07-2026

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THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

**WP No. 12680 of 2026
and WMP.Nos.13849 and 13850 of 2026**

1. M/S.RICO AUTO INDUSTRIES
Limited
Rep by its Deputy General Manager-
Export/ Import Mr.Ajay Kumar Singh
38 KM Stone Delhi-Jaipur Highway
Gurugram 122 001 Haryana.

Petitioner(s)

Vs

1. The Commissioner of Customs
Chennai II Import Commissionerate,
Custom House, 60,Rajaji Salai
Chennai-600 001.

2.The Deputy Commissioner of
Customs
O/o.The Commissioner of Customs,
Chennai II Import Commissionerate,
Custom House, 60,Rajaji Salai
Chennai-600 001.

3.The Assistant Commissioner of
Customs
O/o.The Commissioner of Customs,
Chennai II Import Commissionerate,
Custom House, 60,Rajaji Salai
Chennai-600 001.

Respondent(s)

**PRAYER**

Writ Petition filed under Article 226 of the Constitution of India praying to call for the records pertaining to the impugned communication dated 28.05.2024 in File No.CUS/ BOND/ CANE / 28/ 2023 by the 3rd Respondent and the Consequential order dated 08.01.2026 in F.No.CUS/ APR/ MISC/ 2302/ 2025-GR 5B passed by the 2nd Respondent and quash the same and further direct the 1st Respondent to grant ex post facto approval of the petitioners request dated 22.11.2024 seeking extension of time for re- export of the goods and pass.

For Petitioner(s): Mr.Hari Radhakrishnan

For Respondent(s): Mr.M.Santhanaraman
Standing Counsel

ORDER

The petitioner challenges the communication dated 28.05.2024 issued by the third respondent and the consequential order dated 08.01.2026 passed by the second respondent. The petitioner also seeks a direction to the first respondent to grant **ex post facto** approval on the petitioner's request dated 22.11.2024 seeking extension of time for re-export of the goods.

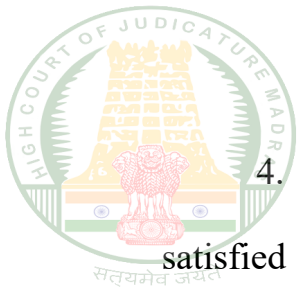
2. By the impugned communication dated 28.05.2024, the petitioner's



request for condonation of delay in re-exporting the goods, grant of further extension of time, and cancellation of the bond and bank guarantee came to be rejected.

3.1. The petitioner had exported goods described as “Drive Axles with Differential” to a buyer in Slovakia under Shipping Bill No.4778145 dated 22.09.2021. Owing to certain defects in the goods, they were re-imported on 19.10.2022 without payment of customs duty under Notification No.158/95-Cus., dated 14.11.1995, for the purpose of repair and re-export. In terms of the notification, the petitioner executed a bond and furnished a bank guarantee on 17.11.2022.

3.2. After carrying out the repairs, the goods were re-exported on 04.08.2023 under Shipping Bill No.2963433. Thus, the goods were re-exported after a period of 8 months and 18 days from the date of re-importation, resulting in a delay of about 2 months and 18 days beyond the initial period of six months. On 27.03.2024, the petitioner requested the first respondent to cancel the bond and bank guarantee on the ground that the goods had been re-exported within the maximum permissible period of twelve months under the notification. The request was rejected by the third respondent through the impugned communication.



4. Learned counsel for the petitioner submitted that the petitioner had satisfied the conditions of Notification No.158/95-Cus., dated 14.11.1995, inasmuch as the goods were re-imported within three years from the date of export and were re-exported within the extended period of twelve months contemplated under the notification. It was contended that the first respondent, being the competent authority, ought to have granted **ex post facto** approval for extension of time. Therefore, the impugned communication is contrary to the notification and without authority of law.

In support of the above submission, reliance was placed upon the following decisions:

(i) *United Export v. Commissioner of Customs (ICD), New Delhi*, **2016 (9) TMI 1407 (CESTAT, New Delhi)**; and

(ii) *Life Insurance Corporation of India v. Escorts Ltd. and Others*, **(1986) 1 SCC 264**.

5. Per contra, learned counsel for the respondents submitted that the petitioner had re-exported the goods without obtaining prior extension of time and that the notification does not specifically provide for grant of **ex post facto** approval. It was therefore contended that the petitioner is not entitled to



extension of time and that the impugned communication, having been issued on the recommendation of the first respondent, is valid.

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6. The submissions of the learned counsel on either side and the materials placed on record have been carefully considered.

7. The facts are not in dispute and are therefore not repeated.

8. The issue involved in the present writ petition is governed by Notification No.158/95-Cus., dated 14.11.1995, which grants exemption from customs duty on re-import of exported goods subject to certain conditions, namely:

(i) the goods should be re-imported within three years from the date of export; and

(ii) the goods should be re-exported within six months from the date of re-import, with power vested in the Commissioner of Customs to extend the period by a further six months.

In the present case, the petitioner has admittedly satisfied the first condition. As regards the second condition, the goods were re-exported after 8 months and 18



days. The delay of about 2 months and 18 days occurred on account of the repairs carried out on the goods. The notification empowers the Commissioner of Customs to extend the period for re-export by a further six months.

In *United Export* (supra), the CESTAT, New Delhi, in similar circumstances, relying upon an earlier decision, directed the competent authority to reconsider the matter and grant **ex post facto** permission for re-export within the extended period of six months under the notification.

9. Likewise, in *Commissioner of Customs & Central Excise, Indore v. Neo Sack Ltd.*, **2019 (238) E.L.T. 88 (Tri.-Del.)**, the CESTAT, Principal Bench, New Delhi, following the earlier decisions, upheld the grant of **ex post facto** extension of time for re-export.

10. The Supreme Court, in *Life Insurance Corporation of India v. Escorts Ltd. and Others* (supra), while interpreting Section 29 of the Foreign Exchange Regulation Act, held that where the statute merely uses the expression “general or special permission” without using the words “previous permission” or “prior permission”, **ex post facto** approval is permissible unless the statutory scheme indicates otherwise.

11. The Supreme Court observed as follows:

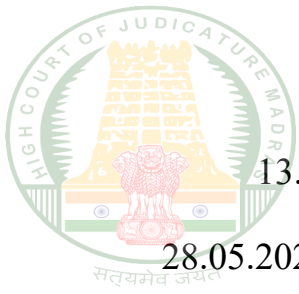


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“The expression used is ‘general or special permission of the Reserve Bank of India’ and that expression is not qualified by the word ‘previous’ or ‘prior’. While the words ‘previous’ or ‘prior’ may be implied where the context or object of the legislation so requires, there are no such compelling circumstances in Section 29(1). On the contrary, wherever Parliament intended previous permission, it has expressly used those words.”

12. Applying the above principle, this Court is of the view that Notification No.158/95-Cus., dated 14.11.1995, does not require an importer to obtain **prior or previous permission** from the Commissioner of Customs before re-exporting the goods beyond the initial period of six months. The Notification merely empowers the Commissioner to extend the period for re-export by a further period not exceeding six months. In the absence of any requirement for **prior or previous permission**, the Commissioner is competent to grant **ex post facto** approval, provided the goods have been re-exported within the maximum extended period of twelve months prescribed under the Notification.

Therefore, the impugned communication issued by the third respondent on behalf of the first respondent is contrary to the terms of the notification and is legally unsustainable.



13. Accordingly, the writ petition is allowed. The communication dated 28.05.2024 issued by the third respondent and the consequential order dated 08.01.2026 passed by the second respondent are hereby quashed.

The first respondent is directed to consider the petitioner's request and grant ex post facto approval, provided the goods were re-exported within the maximum extended period of twelve months permitted under Notification No.158/95-Cus., dated 14.11.1995. Upon granting such approval, the first respondent shall direct the second and third respondents to cancel the bond and bank guarantee furnished by the petitioner.

The entire exercise shall be completed within a period of four (4) weeks from the date of receipt of a copy of this order.

There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

13-07-2026

Neutral Citation: Yes/No

nvsri



To

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