IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE Tmt.JUSTICE V.BHAVANI SUBBAROYAN

W.A. No.384 of 2018
and
C.M.P. No.3210 of 2018

1.The Assistant Commissioner of Customs (Gr.7H)
No.60, Rajaji Salai
Custom House
Chennai - 600 001

2.The Additional Director
Directorate of Revenue Intelligence
G.N.Chetty Road, T.Nagar
Chennai - 600 017 .. Appellants/Respondents

Vs.

M/s.Kanishka Enterprises
48/87, Linghi Chetty Street
Mannady, Chennai - 600 001
by its Authorised signatory
G.Sankaralingam .. Respondent/Petitioner

Prayer:

Writ Appeal filed under Clause 15 of the Letters Patent against the order of the Writ Court dated 10.08.2017 made in W.P. No.19767 of 2017.

Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent herein to implement his order dated 16.06.2017 allowing provisional release of goods mentioned to therein concerning the Bill of Entry No. 9323907 dated 17.04.2017 u/s. 110A of the Customs Act

For Appellant : Mr.V.Sundareswaran

For Respondent : Mr.S.Baskaran

JUDGMENT
(Delivered by S.MANIKUMAR, J.)

Challenge in this writ appeal is to the order of the writ court dated 10.08.2017 made in W.P. No.19767 of 2017, by which, the writ court, disposed of the writ petition, directing the first respondent therein, namely, the first appellant herein, to provisionally release the goods in terms of the order dated 16.06.2017, after accepting the payment of duty, amounting to Rs.15,12,289/- on the re-determined value as per SIIB report and on re-verifying the Bank Guarantee and Personal Bond filed by the respondent, within a period of 10 days from the date or receipt of a copy of that order. Writ court also directed that, it is open to the second respondent therein/second appellant herein, to examine the cargo reported by the respondent, and sought to be cleared by the said bill of entry.

2. Material on record discloses that the respondent is engaged in the business of import and trading of mobile phones and its accessories, assorted china watches of unpopular brands, etc., and for conducting the said business, they have been issued with Importer Exporter Code No.0413038572 by Joint DGFT, Chennai. During the course of its business, the respondent had imported one consignment of mobile phone and accessories, viz. Hands free for mobile, Mobile phone pu pouch, Mobile Phone Screen guard, Mobile phone speaker, Mobile Phone cable, Mobile Phone blue-tooth, Mic, Mobile Phone plastic stand, Mobile phone selfie stick, Mobile phone spare parts (ringer) all of unpopular brand and assorted china watches (unpopular brand) from the overseas supplier M/s.Milton Raise Industries Ltd., Hongkong, vide their Invoice No.GZV-V17030019 dated 19.03.2017 and had given a credit period of 3 months from the payment of sale consideration to the overseas supplier.

3. Material on record further discloses that, after the goods arrived at the Chennai Sea Customs Port, a Bill of Entry bearing No.9670811 dated 12.05.2017 was filed along with relevant import documents for assessment and clearance of the subject goods and accordingly, the assessment officer/Assistant Commissioner of Custom ordered the bill to be taken up for first check. When the consignment was taken up for examination, it was reported by the officials that since SIIB, Chennai, had taken up the bill for further investigation, the petitioner was directed to report before SIIB, Chennai. On appearance of the petitioner before the SIIB officials, the consignment was examined by SIIB officers on 03.05.2017 in the presence of Docks officials at D.R.Logistics, Container Freight Station and consequently were seized under seizure mahazar dated 03.05.2017 after drawing inventory of the goods.

4. Material on record further discloses that, pursuant to the above inspection/examination of the goods and seizure of the goods by SIIB, the petitioner approached SIIB and gave various representations in the matter, both oral and written, seeking provisional release of the seized goods in terms of Section 110-A of the Customs Act and accordingly, SIIB officers after proper consideration of the representation, forwarded the file to the Assistant Commissioner of Customs.

5. Material on record further discloses that the Assistant Commissioner of Customs/first appellant, after considering their request for provisional release and the report of SIIB, was pleased to allow provisional release of the goods after obtaining the approval from his higher authority/competent authority, vide his order dated 16.06.2017 conveying that the provisional release of the goods is granted, subject to the condition that the importer should pay the duty amount of Rs.15,12,289/- on the re-determined value of the goods as per SIIB report and furnish a bank guarantee for 30% of differential duty of Rs.4,60,000/- and execution of a personal bond for the total value of the goods i.e. Rs.51,05,681/-. In order to comply with provisional release order dated 16.06.2017, petitioner paid the differential duty amount of Rs.4,60,000/- vide TR6 challan dated 17.06.2017 and also executed the bond as directed for the entire enhanced value of the goods i.e. Rs.51,05,681/- and when arrangements were being made for the payment of Rs.15,12,289/-, petitioner was informed by the officials that the office of the Directorate of Revenue Intelligence has given instructions not to permit clearance of the goods without their consent and therefore, the order passed cannot be given effect to.

6. Before the writ court, it was the contention of the writ petitioner that when an investigation agency, viz., SIIB, Chennai had made thorough investigation and taken inventory of the goods and also submitted a report with the group concerned, based on which the Assistant Commissioner of Customs had taken a conscious decision to allow provisional release of the goods under Section 110-A of the Customs Act, exercising his statutory power conferred under the said provision and that too, after obtaining necessary prior approval/grant/permission from his higher authority, the writ petitioner was at a loss to know, as to what could be the reasons for the Directorate of Revenue Intelligence to withhold the consignment and legal impediment caused for the release of the goods, when a statutory order had been already passed allowing provisional release of the goods, which stands goods till date, as the said order has not been reviewed or appealed against or annulled or set aside in a manner known to law.

7. It was also the contention of the writ petitioner that he made representations to the Directorate of Revenue Intelligence

requesting them to inform the reasons for not allowing the provisional release of the goods, inspite of the petitioner having been issued with the order for provisional release under Section 110A of the Customs Act pending adjudication of the matter. The petitioner has further contended before the writ court, that he has also pleaded before the 2nd respondent/Directorate of Revenue Intelligence that since the goods had been pending clearance for nearly 2-1/2 months, incurring container detention, demurrage and other incidental charges, which has been mounting day by day, contrary to their business interest, besides the investment made in the business, incurring interest on the sum borrowed, causing serious prejudice and hardship to them, requested the said authority to accord necessary concurrence to the first appellant for the provisional release of the goods as ordered by him, while it was also brought to his knowledge that the writ petitioner have already complied with the conditions imposed in the provisional release order in respect of payment of 30% of differential duty and execution of bond, while they are also ready to pay the duty amount of Rs.15,12,289/- on proper approval being given by the group concerned. But to the shock and dismay of the petitioner, the Directorate of Revenue Intelligence, so far had not assigned any reasons nor have communicated to the petitioner the reasons for the detention and for the non-release of the cargo albeit provisionally, which is highly improper and unbecoming on the part of the Directorate of Revenue Intelligence officials.

8. It was the further contention of the petitioner that the action of the officials of the Directorate of Revenue Intelligence in creating a stumbling block from implementing the provisional release of the goods under the statutory order passed by the 1st respondent passed in terms of Section 110-A of the Customs Act and not allowing the clearance of the subject goods for such a long time, is clearly opposed to the Customs Law, besides being in utter defiance of the specific instructions issued by the Central Board of Excise & Customs, New Delhi communicated vide Circular bearing No.42/2001-Cus dated 31.07.2001 on the requirement of speedy clearance of the imported goods in order to avoid payment of detention and demurrage charges and the very purpose of enacting the provisions of Section 110-A of the Customs Act.

9. After hearing the arguments of both parties, and upon considering the facts and circumstances of the case, writ court passed the following order, on 10.08.2017.

> "3. The petitioner seeks for a direction upon the first respondent to implement the order, dated 16.06.2017, permitting provisional release of goods mentioned in the Bill of Entry No.9323907 dated 17.04.2017. The first respondent has imposed the following three conditions to be complied with for

provisional release of the goods imported in the said Bill of Entry:-

a) On payment of duty amount of Rs.1512289/- on the re-determined value as per SIIB report

b) Furnishing of a Bank Guarantee for 30% of the differential duty of Rs.460000/- and

c) Execution of a personal Bond for the total value of the goods i.e, for Rs.5105681/-

4. The learned counsel for the petitioner submitted that the conditions imposed in Clause (b) and (c) above have been complied with. However, when the petitioner went to remit duty, as directed in Clause (a) , the first respondent informed that they have received intimation from the second respondent viz., Directorate of Revenue Intelligence (DRI) not to release the cargo. Therefore, the petitioner seeks for implementation of the order of provisional release of goods, by contending that it is a statutory order and requires to be implemented by the first respondent.

5. The learned counsel for the second respondent submitted that extensive investigation is being done by the DRI not only in respect of petitioner's goods, but also other 26 containers, which are said to have imported assorted goods from China. Therefore, if any direction is issued by the first respondent for provisional release of goods, it will hamper the investigation.

6. The submission made by the learned counsel for the second respondent could have been accepted if the first respondent has not exercised his statutory powers and granted provisional release. As long as the order passed by the first respondent remains intact, the second respondent cannot sit in judgment over the order of the first respondent. However, this Court is conscious of the fact that because of the provisional release, the ongoing investigation should not be hampered.

7. In the light of the above, there will be a direction to the first respondent to provisionally release the goods in terms of the order dated 16.06.2017, after accepting the payment of duty amounting to Rs.1512289/- on the re-determined value as per SIIB report and on re-verifying the Bank Guarantee and Personal Bond filed by the petitioner, within a period of 10 days from the date of receipt of a copy of this order. By then, it is open to the second respondent to examine the cargo imported by the petitioner, which is sought to be cleared by the said Bill of Entry.

The writ petition stands disposed of

accordingly. No costs."

10. As there was no response to the order dated 10.08.2017, made in W.P. No.19767 of 2017 by the Assistant Commissioner of Customs (Gr.7H), the respondent/writ petitioner, has filed a contempt petition in Contempt Petition No.1788 of 2017 for the willful disobedience of the order passed by the writ court in W.P. No.19767 of 2017 dated 10.08.2017. The Assistant Commissioner of Customs (Gr.7H), Customs House, has filed a petition in W.M.P. No.27347 of 2017 for modification of the order and for extension of time. After hearing both the parties and on going through the averments in the contempt petition and modification petition, on 23.11.2017, Writ court, has passed the following order:

> "4. The aforesaid Writ Petition was filed by the contempt petitioner for a direction upon the Department to implement its order, dated 16.06.2017, which granted provisional release of the goods imported by the petitioner, which were detained for investigation by SIIB. This Court heard the matter on merits and disposed of the Writ Petition, by an order, dated 10.08.2017. The operative portion of the said order reads as follows:-
>
> > " 6. The submission made by the learned counsel for the second respondent could have been accepted if the first respondent has not exercised his statutory powers and granted provisional release. As long as the order passed by the first respondent remains intact, the second respondent cannot sit in judgment over the order of the first respondent. However, this Court is conscious of the fact that, because of the provisional release, the ongoing investigation should not be hampered.
> >
> > 7. In the light of the above, there will be a direction to the first respondent to provisionally release the goods in terms of the order, dated 16.06.2017, after accepting the payment of duty amounting to Rs.1512289/- on the re-determined value as per SIIB report and on re-verifying the bank guarantee and personal bond filed by the petitioner, within a period of 10 days from the date of receipt of a copy of this order. By then, it is open to the second respondent to examine the cargo imported by the petitioner, which is sought to be cleared

by the said Bill of Entry."

5. The fact that the Revenue has approached this Court, seeking for modification coupled with clarification would clearly show that, there is no intention to willfully disobey the order and direction issued by this Court. Therefore, no action for contempt could be initiated against the Revenue Department. However, it has to be seen, as to whether the relief sought for in the modification Petition can be granted.

6. The prayer sought for in the modification Petition has been carefully worded, and, on a closure scrutiny, it is seen that, what the Department seeks to do is to review the order passed in the Writ Petition. This is clearly impermissible by way of modification Petition. This is sufficient to dismiss the modification Petition. However, considering the fact that, the Department is ready and willing to comply with the provisional release of the goods, in terms of its order, dated 16.06.2017, and only seeks for clarification that, such of those goods, which have not been cleared by the SIIB for IPR violations or otherwise, should not be directed to be released, and accordingly, the learned counsel appearing for the writ petitioner would submit that, only such of the goods, which have been cleared by the SIIB may be considered for release and the writ petitioner does not seek for release of the goods, which have been detained for IPR violation or otherwise, in fact, the order passed by the Assistant Commissioner of Customs, viz., the order of provisional release, dated 16.06.2017 is only in respect of the non confiscated goods, this Court is of the view that, by release of such goods, the Department need not have any apprehension that, it would hamper the investigation or the ultimate result of the adjudication, if already commenced.

7. For the reasons stated above, the prayer, as sought for by the Department in the modification Petition is rejected, with an observation and direction that, the provisional release of the goods in terms of the order, dated 16.06.2017, shall cover only the non confiscated goods and the Department is directed to comply with the order passed in W.P.No.19767 of 2017, dated 10.08.2017 within a period of 15 days from the date of receipt of a copy of this order.

8. In the light of the reasons assigned in this order for rejecting the modification Petition,

the Contempt Petition stands dismissed. No costs.

9. The learned counsel for the writ petitioner/contempt petitioner submitted that the goods have been detained since 17.04.2017, and they have suffered high demurrages and the writ petitioner has filed an Application for waiver. Since the goods were detained for examination at the instance of SIIB, there should not be any difficulty for the Department to give a Demmurrage and Detention Certificate from the date of detention till the date of release."

11. Being aggrieved by the order of the writ court dated 10.08.2017 made in W.P. No.19767 of 2017, instant writ appeal has been filed on the grounds that the writ court has failed to appreciate the law that when there is no prohibition for seizure of the provisionally released goods under Section 110-A of the Customs Act, 1962, there was a flagrant violation of the statutory provisions of the Export and Import regulations read with Customs Act; that the writ court ought to have seen that the consignment under Bill of Entry No.9323907 dated 17.04.2017 was not imported by the actual IEC holder Smt.N.Usha Nataraj (Usha Rani) and it came to light that the said consignment was actually imported by one Shri.Aftab Alam by misusing IEC of the writ petitioner; that the writ court failed to appreciate that the IEC holder Smt.Usha Rani in her voluntary statement under Section 108 of the Customs Act, 1962, had inter alia stated that she disowned the consignment imported in the name of her IEC M/s.Kanishka Enterprises under BE No.9323907 dated 17.04.2017; that she had not signed any document for anyone and never asked anyone to file any writ petition on her behalf; that the writ court ought to have granted sufficient time for producing the records and details of the investigations to show that the actual IEC holder had never seen Shri Sankaralingam in person, but had heard her son-in-law saying that Shri Aftab Alam has sought help from Shri Sankaralingam for filing the said writ petition in High Court; that however, she had not given any authorisation to Shri Sankaralingam or any other person; that since the goods imported by Shri Aftab Alam by using the IEC of M/s.Kanishka Enterprises had been seized by DRI officers, Shri Aftab Alam and Shri Sathish through Shri Sankaralingam might have been filed the said writ petition before the court for release of goods without her knowledge/permission; that she had just came to know and understood about this fact; that otherwise there was no link between M/s.Kanishka Enterprises, the goods imported by using the said IEC and Shri.Sankaralingam, that Shri Aftab Alam was the real owner of the above said goods; that the writ court failed to appreciate that Shri.G.Sankaralingam, claimed to be the Authorised Signatory of M/s.Kanishka Enterprises, in his voluntary statement under Section 108 of the Customs Act, 1962, had inter alia stated that he disowned the

consignment imported in the name of her IEC M/s.Kanishka Enterprises under BE No.9323907 dated 17.04.2017; that as directed by Shri.Sathish, son-in-law of Smt.Usha Rani, he filed the writ petition, but now only he realised that Sathish had cheated him and used him to file the said writ petition; that he was not the actual owner of the said consignment; that Sathish had cheated and dragged him in to this case; that he had no connection with this case; that Sathish only knew the real owner of the said consignment; that the writ court failed to appreciate the law when both the IEC holder Smt.Usha Rani and the so called Authorised Signatory Shri.G.Sankaralingam in their voluntary statement disowned the above said consignment, there is no legal enforceable right for any provisional release of the goods seized; that the writ court ought to have seen that SIIB, Customs House, Chennai had only examined and seized a part consignment (small quantity of items). However, apart from the small quantity seized by SIIB, the remaining consignment had the huge number of IPR/BIS violated items (there were 1,11,413 watches and 68 power banks and other undeclared goods, in addition to certain other goods). Since the said consignment had the concealment of high value IPR violated goods (popular brand watches, ear phones etc.) BIS violated goods (Mobile phone batteries, chargers, cables etc.) and other undeclared goods, the DRI, CZU had seized the entire consignment including the part consignment seized by SIIB. However, DRI, CZU had taken over the custody of the seized goods by SIIB and further investigation is in progress.

12. Writ court failed to appreciate that DRI, CZU, on re-examining the consignment, had arrived at revised values of the offending goods and communicated the same to the concerned Commissionerate, so that the terms of provisional release would be suitably modified by them, so as to reflect the factual position in respect of the quantity and value of the seized goods, and that the Commissionerate would require the importer to furnish a bond and bank guarantee commensurate with the actual value of goods imported vide Bill of Entry No.9323907 dated 17.04.2017, as found by way of the DRI investigation.

13. Heard the learned counsel for the parties and perused the materials available on record.

14. On 20.02.2018, we passed the following order:

> "Mr.S.Baskaran, learned counsel for the respondent made serious objections to the maintainability of the writ appeal, on the grounds that both the modification common order in W.M.P.No.27347 of 2017 in W.P.No.19767 of 2017 and Contempt Petition No.1788 of 2017, dated 23/11/2017, have not been challenged.
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> 2. At para Nos.7 and 8 of the affidavit filed

by both the Assistant Commissioner of Customs (Gr-7H), Chennai and the Additional Director, Director of Revenue Intelligence, Chennai, petitioners therein, in W.M.P.No.27347 of 2017 in W.P.No.19767 of 2017 have averred as follows:-

"The petitioners most respectfully states that based on specific intelligence, and along with investigation of other 26 containers, the container number TCNU 7018218, filed vide Bill of Entry No.9323907 dated 17/4/2017 was also re-examined and re-inventorised as permitted by the Hon'ble High Court. On re-examination, it was found that as against the Importers declaration, the DRI (second petitioner) vide their letters dated 24/8/2017, 28/8/2017 and 31/8/2017 reported that there appears to be a copyright vioaltion in 33074 watches out of 1,11,413 watches inventorised by DRI as against 7915 watches out of only 77,100 watches which was reported earlier. There is an increase in the quantity of goods which appear to have violated copyrights and they appear to be prohibited for Import. In such a scenario the quantity of goods that can be provisionally released will change and the existing provisional release order dated 16/6/2017 cannot be implemented as such. Further, it is most respectfully submitted that the assessable value of the total consignments, declared by the importer was Rs.6,60,531/- whereas the DRI vide their letters dated 24/8/2017, 28/8/2017 and 31/8/2017 reported that estimated value of the goods imported after their re-examination, is more than Rs.4.50 crore (more than 65 times the declared value). Therefore, the quantity of goods and the value ascertained after DRI examination for the subject goods is differing from the earlier reported data which was the basis for issuing provisional release order, dated 16/6/2017.

DRI have further stated that they have no objection to the provisional release of the re-examined/re-inventorised goods which are not under investigation under the IPR (Imported goods) Enforcement Rules or the Electronic and Information Technology Goods (Requirement for Compulsory Registration) Regulations, 2012. The petitioners most respectfully state that it is also informed that the status of the canalised goods which requires IPT &BIS certification will not be known until the respective right holders revert with regard to the infringing nature of the goods under the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007, as inspection was only done on 23/8/2017 and some parties are yet to join the proceedings.”

3. We have perused the common order.

4. Specific averments of both the Customs and Revenue Intelligence, extracted supra, have not been addressed in the common order, made in Contempt Petition No.1788 of 2017 and Modification Petition in W.M.P.No.27347 of 2017 in W.P.No.19767 of 2017, dated 23/11/2017.

5. Learned counsel for the respondent submitted that the goods offending IPR violations or otherwise can be retained, until the finality of adjudication proceedings. He submitted that an affidavit to that effect would be filed by the respondent in the instant appeal. Placing on record the above submission, respondent is directed to file an affidavit.

6. Mr.V.Sundareswaran, learned counsel for the revenue is directed to file the copies of the letters, dated 24/8/2017, 28/8/2017 and 31/8/2017 of the Department of the Revenue Intelligence.

7. Post on 22/2/2018."

15. On 22.02.2018, the first respondent M/s.Kanishka Enterprises, represented by G.Shankaralingam, has filed an affidavit of undertaking. The same reads thus:

"I, G.Shankaralingam, son of Mr.Ganesan, aged about 36 years, having my office at M/s.Kanishka Enterprises, 48/87, Linghi Chetty Street, Mannadi, Chennai - 600 001, do hereby solemnly affirm and sincerely state as under:

1. I state that I am the Authorised Signatory of the respondent proprietorship concern and as such I am well acquainted with the facts and circumstances of the case and I am competent to swear to this affidavit as I have been authorised to do so.

2. I submit that the appellants herein have preferred the above writ appeal in W.A. No.384 of 2018, challenging the order passed by the learned single Judge in W.P. No.19767/2017 dated 10.08.2017 and the respondent herein had entered his appearance by filing caveat.

3. I submit that the above writ appeal came up for admission before this Hon'ble Court on 20.02.2018 and after hearing the arguments of both sides this Hon'ble Court had directed the respondent herein to file an affidavit and accordingly the respondent/caveator herein is swearing to this affidavit.

4. I submit that originally the 1st respondent herein vide its order dated 16.06.2017 had allowed

provisional release of the goods u/s.110A of the Customs Act on the direction issued by the competent authority based on the SIIB report and upon imposing certain conditions for the said provisional release concerning the Bill of Entry No.9323907 dated 17.04.2017.

5. I submit that since the provisional release order passed by the 1st appellant was not implemented, the respondent filed writ petition W.P. No.19767/2017, before this Hon'ble Court and after hearing both sides the learned single Judge vide order dated 10.08.2017 directed the appellants herein to implement the provisional release order dated 16.06.2017 passed by the proper officer of customs.

6. I submit that since the order of the learned single Judge was not implemented for a long time I moved a contempt petition No.1788/2017, while the appellants herein also filed a modification petition in W.M.P. No.27347 of 2017 seeking modification of the order passed in the above writ petition. I state that the learned single Judge vide common order dated 23.11.2017 dismissed the modification petition filed by the appellants herein after observing and direction that the provisional release of the goods shall cover only the non confiscated goods and directed the department to comply with the order passed in W.P. No.19767/2017 within a period of 15 days, while also directing the department to consider the respondent plea for issuing waiver of detention/demurrage certificate.

I submit that during the course of argument in the said writ appeal, the department had reported that on further re-examination of the goods, it was found there was a copyright violation (Intellectual Property Rights - IPR violation) in respect of 33074 watches out of 1,11,413 watches inventorised by the DRI as against 7915 watches out of 77100 watches noticed by SIIB in their report, while also informed that BIS certification is need in respect of power banks.

8. I submit that by swearing to this affidavit, I undertake not to claim the provisional release of the goods which as per the report of the DRI to have been imported in violation of the Intellectual Property Rights Violations (IPR) viz.

the fake watches and the power banks, which requires BIS certification, and covered under the impugned Bill of Entry No.9323907 dated 17.04.2017 till the adjudication of the matter pertaining to the said goods by the proper officer of customs/adjudicating authority without prejudice to my rights to contest the said report of the DRI before the appropriate officer and the adjudicating authority and in the manner known to law.

I submit that this Hon'ble Court may be pleased to take the above contents of my sworn affidavit on record and pass appropriate orders as deemed fit and proper in the facts and circumstances of the case and thus render justice.

16. Details of the Revenue Investigation disputes, value arrived at is given in Annexure II, dated 14.09.2017, notwithstanding the inter se dispute, subject matter of adjudication of the Show Cause Notice dated 25.01.2018.

17. Without going into the rival submissions, with the consent of the learned counsel appearing for both the parties, there shall be a provisional release of goods, mentioned in Annexure No.II, dated 14.09.2017 of the Deputy Director, Government of India, Ministry of Finance, Department of Revenue, Directorate of Revenue Intelligence Nodal Unit, Chennai, addressed to the Commissioner of Customs, Chennai-IV, Customs House, Chennai, on payment of 30% of the differential duty, on the provisional assessed value of Rs.2,80,46,001/-Apart from the above, the respondent shall submit a personal bond on the total provisionally assessed value, as per the Annexure No.II.

18. Observation of the Writ Court in Paragraph No.9 of the common order in W.M.P.No.27347 of 2017 in W.P.No.19767 of 2017 and Contempt Petition No.1788 of 2017, dated 23.11.2017, filed for modification, is sustained. For the purpose of brevity, the same is extracted hereunder:

"9. The learned counsel for the writ petitioner/contempt petitioner submitted that the goods have been detained since 17.04.2017, and they have suffered high demurrages and the writ petitioner has filed an Application for waiver. Since the goods were detained for examination at the instance of SIIB, there should not be any difficulty for the Department to give a Demmurrage and Detention Certificate from the date of detention till the date of release."

19.With the above observations, writ appeal is disposed of. However, there shall be no order as to cost. Consequently, the connected civil miscellaneous petition is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To
1.The Assistant Commissioner of Customs (Gr.7H)
No.60, Rajaji Salai
Custom House
Chennai - 600 001

2.The Additional Director
Directorate of Revenue Intelligence
G.N.Chetty Road, T.Nagar
Chennai - 600 017

+ 2 cc to Mr.S.Baskaran Advocate,SR.15225

+ 1 cc to Mr.V.Sundareswaran Advocate,SR.16779

W.A.No.384 of 2018
and
C.M.P. No.3210 of 2018

ssv(co)
nr 16/03/2018