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W.P.No.32320 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: **05.12.2022**

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.32320 of 2022

M/s.Alams Mobiles

No.9A, Mohammed Hussain Sahib Road

Mount Road, Chennai – 600 002

By its Authorised Signatory Mr.Aftab Alam

.. Petitioner

Vs.

1. The Addl. Commissioner of Customs (Gr.SC)

New Customs House, Meenambakkam

Chennai – 600 027

2. The Deputy Commissioner of Customs (Gr.SC)

New Customs House, Meenambakkam

Chennai – 600 027

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the respondents herein to release the goods under import, made vide Bill of Entry No.9603335 dated 18.07.2022 which is a Live consignment, by considering the various representations of the petitioner, including the latest representation of the petitioner dated 31.10.2022 in so far as in the said representation, the petitioner had sought for the provisional release of goods in terms of judgment rendered by Hon'ble Supreme Court in the case of Commissioner



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Vs. M/s.Navshakti Industries Pvt. Ltd., - 2011 (269) ELT A146 (SC) r/w.
The Customs (Provisional Duty Assessment) Regulations, 1963 and
Section 18 read with Section 110A of Customs Act, 1962 and also to issue
necessary detention certificate in terms of Reg.6(1) of the Handling of
Cargos under Customs Area Regulations, 2009, pending any further
proceedings by the respondents.

For Petitioner : Mr.S.Baskaran

ORDER

Captioned writ petition pertains to provisional release of a
consignment (auto mobile spares) imported by the writ petitioner. It turns
inter alia on Section 110A of 'the Customs Act, 1962' [hereinafter 'said
Act' for the sake of brevity and convenience]

2. Mr.S.Baskaran, learned counsel on record for writ petitioner
submits that post filing of captioned writ petition, the second respondent
has made an order dated 02.12.2022 vide
F.No.ACC/ASST/MISC/899/2022-GR-5A ACC and DIN:2022 1273
MU0000523641, learned counsel has placed before this Court a copy of
the order and a scanned reproduction of the same is as follows:



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ACC/ASST/MISC/899/2022-GR 5A-Q/O PR COMM-CUS-ACC-CHENNAI

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02/12/2022

भारतसर्वकार / Govt. of India वित्तमंत्रालय / Ministry of Finance सूक्ष्मविकास Department of Revenue		दूरभाष / Phone: 044- 2256 9512, 518, 513 फैक्स / Fax: 044-2256 1429 ईमेल / Email: prccomcar2002@ cuschnet.gov.in
प्रधानआयुक्तसीमाशुल्ककार्यालय / THE PRINCIPAL COMMISSIONER OF CUSTOMS (चेन्नई-५) नवीनसीमाशुल्कघर / (CHENNAI-VII) - NEW CUSTOM HOUSE, मीनम्बाकम चेन्नई-६०००२७ / MEENAMBAKKAM, CHENNAI - 600 027 www.aicustoms.chennai.gov.in		

F.No: ACC/ASST/MISC/899/2022-GR-5A-ACC
DIN: 2022/273 MV0000523641 Dated: 02-12-2022

To,

M/s Alams Mobiles,
No. 9-A, Mohammed Hussain Sahib Stre,
Mount Road, Chennai - 600 002.

Subject: Provisional Release of goods imported vide BE no. 9603335
dated 18.07.2022 - reg.

Gentlemen,

Please refer to the goods imported vide BE no. 9603335 dated
18.07.2022 and confiscated vide mahazars dated 22.07.2022 under Section
110(1) of the Customs Act, 1962.

The differential duty calculation details for the mis-declared/ undeclared
goods forwarded by DRI are as follows:

Bill of Entry No. & date	value declared in the Bill of Entry(Rs.)	Value ascertained after CE Report(Rs.)	Diff Duty Payable (BCD 15%, SWS 10%, IGST 18%) (Rs.)
9603335 / 18.07.2022	13,91,410/-	70,43,530/-	21,17,849/-

The adjudicating authority has approved for the provisional release of the



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GROUP 5A, D/O PR COMM-CUS-ACC-CHENNAI

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impugned goods under section 110A of the Customs Act, 1962 subject to compliance of the following conditions:

1. Importer executes a provisional bond for the full estimated value i.e Rs. 70,43,530/- of the confiscated goods.
2. Goods are provisionally assessed at value determined by DRI and duty is paid on this re-determined value.
3. Importer furnishes a BG for the following amount for a period of 2 year with auto renewal clause :
 - a. 25% of differential duty (15% of penalty and 10% of Redemption fine) i.e. Rs. 5,29,463/- leviable on the goods being provisionally released,
4. The bond executed by importer shall contain an undertaking that the importer shall pay the duty, fine and / or penalty as may be adjudged by the Adjudicating Authority, subject to appellate provisions under the Act. Further, where security is furnished by way of Bank Guarantee, the Bank Guarantee should contain a clause binding the issuing bank to keep it renewed and valid till final adjudication of the case, or in the event of nonrenewal of Bank Guarantee as above, the guaranteed amount be credited to the Government account by the bank on its own'.

This is issued with the approval of Competent Authority.

Signed by Meghaa Gupta

Date: 02-12-2022 10:27:48

Reason: Approved


MEGHAA GUPTA
DEPUTY COMMISSIONER OF CUSTOMS
GROUP 5A, ACC

Copy to:

M/s Sanvin Comfort Logistics (Customs Broker),
A.M Towers, Old No.239, New No. 36,
Room No. 310, 3rd Floor, Angappa Naicken ST, Mannady,
Chennai – 600 001.



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3. In the light of the above development, learned counsel seeks leave of this Court to withdraw the captioned writ petition and makes a plea to preserve the rights of the writ petitioner to assail the condition/s imposed by the second respondent for provisional release qua the aforementioned order. Request acceded to.

Captioned writ petition disposed of as closed albeit preserving the rights of the writ petitioner in the aforesaid manner. There shall be no order as to costs.

05.12.2022

Index: yes/no

Internet:yes

gpa

To

1. The Addl. Commissioner of Customs (Gr.SC)
New Customs House, Meenambakkam
Chennai – 600 027
2. The Deputy Commissioner of Customs (Gr.SC)
New Customs House, Meenambakkam
Chennai – 600 027



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M.SUNDAR, J.,

gpa

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& W.M.P.Nos.7849 and 7851 of 2020

05.12.2022