



W.P.No.9893 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.03.2023

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.9893 of 2023

M/s. Moon Tech Enterprises,
Rep. by its Proprietor
Thiburcias Dinesh
Room No.4, 2nd Floor,
Old No.164, New No.114,
Venkatarangam Street,
Ice House, Triplicane,
Chennai 600 005.

... Petitioner

Vs

- 1.The Principal Commissioner of Customs,
Chennai – VIII Commissionerate,
New Custom House,
Air Cargo Complex,
Meenambakkam,
Chennai 600 027.
- 2.The Additional Commissioner of Customs,
Chennai – VIII Commissionerate,
New Custom House,
Air Cargo Complex,
Meenambakkam,
Chennai 600 027.
- 3.The Deputy Commissioner of Customs,
Chennai – VIII Commissionerate,



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New Custom House,
Air Cargo Complex,
Meenambakkam,
Chennai 600 027.

4.The Additional Director General,
Directorate of Revenue Intelligence,
No.27, G.N.Chetty Street,
T.Nagar,
Chennai 600 017.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd respondent herein to release the goods viz., “Chinese Mobiles LCD with touch (unbranded)” imported vide Bill of Entry No.4275881 dated 20.01.2023 in terms of Section 110A of the Customs Act, 1962 and issuance of Detention Certificate for waiver of Demurrage charges, in terms of Regulation (1)(I) of the Handling of Cargo in Customs Areas Regulations 2009.

For Petitioner : Mr.S.Thirumavalavan

For Respondents : Ms.Anila for
Mr.S.R.Sundar (for R1 to R3)
Senior Standing Counsel
Mr.V.Sundareswaran (for R4)
Senior Panel Counsel

ORDER

Ms.Anila, learned counsel accepts notice on behalf of Mr.S.R.Sundar,

learned Senior Standing Counsel for R1 to R3 and Mr.V.Sundareswaran,



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learned Senior Panel Counsel accepts notice for R4. Both are armed with instructions to enable final disposal of this matter, even at the stage of admission.

2. The petitioner has filed this Writ Petition seeking a mandamus directing Additional Commissioner of Customs, Chennai – VIII Commissionerate/R2, to release the goods being Chinese Mobiles LCD with touch (unbranded) in terms of Section 110A of the Customs Act, 1962 (in short 'Act') and issue a Detention Certificate for waiver of Demurrage charges, in terms of the Handling of Cargo in Customs Areas Regulations 2009 (in short 'Regulations').

3. Learned counsel for the respondents point out that the matter is, in fact, pending adjudication but there is no response from the petitioner thus far. They also draw my attention to the Airway bill placed at page 20 of the compilation accompanying the writ affidavit. Inter alia, the original consignee's name has been blocked and the name of the petitioner has been inserted. The column rate/charge reads as '*freight prepaid as arranged*'.

4. Mr.Sundareswaran would submit that none of the relevant documents to enable valuation of the goods for the purpose of Section 110 of the Act are available.



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5. In this context, one may have reference to Section 110A of the Act which provides for provisional release of goods, documents and things seized pending adjudication. The said provision vests power in the adjudicating authority to consider release of seized assets on terms that, in the opinion of the authority would be fit and proper, such as a bond or security, as appropriate in the facts and circumstances of the case.

6. The petitioner has, admittedly, filed a representation on 21.03.2023 seeking release of goods. Let the petitioner be summoned by issue of notice, heard and an order passed on its representation as expeditiously as possible.

7. To be noted that the petitioner has, in fact, been issued a summon on 22.03.2023 for adjudication, but has sought an adjournment of one month on account of the poor health. Thus, it is for the petitioner to ensure appearance before the Assessing Authority to assist in the valuation of the assets by the officer and consideration of its request for release thereafter.

8. This Writ Petition stands disposed in the aforesaid terms. No costs.

Index : Yes / No
Speaking Order
Neutral Citation: Yes
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Dr.ANITA SUMANTH,J.

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