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W.P.Nos.34178 and 34180 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: **06.01.2023**

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.Nos.34178 and 34180 of 2022

KAVANI IMPEX

No.128, Part-B, M.S.Koil Street

Royapuram, Chennai – 600 013

Represented by its Authorised Signatory

CHANGANLAL RAJ PUROHIT

.. Petitioner

in W.P.No.34178 of 2022

PRINCE IMPEX

19/106, Kasi Chetty Street

1st Floor, Pamidi Complex

Chennai, Tamil Nadu – 600 057

Represented by its Authorised Signatory

PUSHPADEVI

.. Petitioner

in W.P.No.34180 of 2022

Vs.

1.The Chief Commissioner of Customs

Office of the Commissioner of Customs (Sea Port)

Customs House

No.66, Rajaji Salai

Chennai – 600 001

2. The Commissioner of Customs (Imports)

Office of the Commissioner of Customs (Sea Port)

Customs House

No.66, Rajaji Salai

Chennai – 600 001



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3. The Commissioner of Customs (Group VIII)
Office of the Commissioner of Customs (Sea Port)
Customs House
No.66, Rajaji Salai
Chennai – 600 001

... Respondents
in both WPs

W.P.No.34178 of 2022: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the 3rd respondent for initiating proceedings in terms of Section 110A to release of seized imported goods pending adjudication in Invoice B/L No.6ER2022091501 dated 15.09.2022.

W.P.No.34180 of 2022: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the 3rd respondent for initiating proceedings in terms of Section 110A to release of seized imported goods pending adjudication in Invoice B/L No.SW1CD22000807 dated 25.09.2022.

For Petitioner : Mr.M.P.Saravanan
for Mr.A.Sathya Prakash
in both W.Ps
For Respondents : Mr.M.Santhanaraman
Senior Standing Counsel (Customs)
in both W.Ps.

COMMON ORDER

This common order will now dispose of the captioned two writ petitions.

2. Mr.M.P.Saravanan, learned counsel representing the counsel on record for writ petitioners and Mr.M.Santhanaraman, learned Senior



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Standing counsel for Customs who had accepted notice on behalf of all the three respondents in both the writ petitions are before this Court.

3. This order has to be read in conjunction with and in continuation of earlier proceedings made by this writ Court in the listing on 21.12.2022, which reads as follows:

'Captioned writ petitions have been filed with a prayer to Mandamus the third respondent to initiate proceedings for provisional release under Section 110A of 'The Customs Act, 1962 [Act 52 of 1962]' (hereinafter 'said Act' for the sake of convenience and clarity).

2. *Mr.M.P.Saravanan, learned counsel representing the counsel on record for the writ petitioners submits that the writ petitioners had imported birthday party items and it is a classification issue. The consignment has been seized on 30.09.2022 but there are no proceedings under Section 110A.*

3. *Mr. M.Santhanaraman, learned senior standing counsel for customs accepts notice on behalf of all the three respondents and requests for a short accommodation to get instructions and revert to this Court.*

4. *Registry to show the name of Revenue counsel in the next listing. List day-after-tomorrow. List on 23.12.2022 in the Admission Board.'*

4. Adverting to the aforementioned proceedings, it is submitted by learned counsel for writ petitioners that writ petitioners' plea for provisional release under Section 110A of said Act is being processed by the second respondent. Learned counsel drew the attention of this writ Court to a communication sent by the second respondent to the writ



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petitioner in W.P.No.34180 of 2022 (PRINCE IMPEX). A scanned

reproduction of the same is as follows:

(3)

GEN/ADJ/Misc/435/2022-OR 6-O/O COMM-CUS-IMP-CHENNAI

1815700/2005 CR No.80/L-6000152
भारत सरकार / GOVERNMENT OF INDIA
वित्त मंत्रालय / MINISTRY OF FINANCE
राजस्व विभाग / DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER OF CUSTOMS, CHENNAI-II
आयुक्त सीमा शुल्क का कार्यालय, चेन्नै-II
001 600-CHENNAI, RAJAJI SALAI, 60, CUSTOM HOUSE.
सीमा शुल्क भवन, 60, राजाजी सलै, चेन्नै- 600 001.

DIN: 20221273MX000008CCB

To
M/s Prince Impex
No. 19/106, Kasi Chetty Street
1st Floor, Chennai - 600001

Gentlemen,

Sub: Personal Hearing Intimation - Reg.

Please refer to the B/E No. 3041588 dt. 26.10.2022 and your letter dated 14.11.2022, addressed to the DC, SIIB.

2. In this regard, it is informed that this office is proceeding with the adjudication as per your letter mentioned above. Further, I am directed to inform you that, the Additional Commissioner of Customs (Group-6), Chennai-II Commissionerate, has granted a Personal Hearing on 30-12-2022 @12:00PM at Room No. 207, 2nd Floor, Krishna Block, Chennai-II Commissionerate, Custom House, Chennai - 01.

3. Therefore, it is advised to appear for Personal Hearing on the above stipulated time and date, either physically or virtually, with duly signed Authorization and Identity Card along with all the relevant documents, if any; failing which the case would be decided ex-parte based on the evidence available on record without any further intimation to you.

The receipt of the letter may be acknowledged.

ATIN
APPRAISER
Group 6-O/o Commissioner-Customs-Impert-Chennai
27-12-2022



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5. Adverting to the above, it is submitted that personal hearing on 30.12.2022 did not go on owing to difference qua pendency of captioned writ petitions and next date for personal hearing has not been given.

6. Learned Revenue counsel, on instructions, submits that writ petitioners' plea for provisional release will be processed by the second respondent and a decision will be taken by examining the plea on its own merits and in accordance with law.

7. In the light of the aforementioned communication dated 27.12.2022, the second respondent is directed to hold the personal hearing on 10.01.2023 at 03.00pm at Room No.207, 2nd Floor, Krishna Block, Chennai -II Commissionerate, Customs House, Chennai-01. If for any reason, second respondent is unable to hold the personal hearing on that date, writ petitioners or their authorised representatives or Advocate shall be given another date and time which shall not be later than 17.01.2023.

8. The second respondent shall process both the provisional release applications of both the writ petitioners as expeditiously as the official business of the second respondent would permit and in any event, on or before 20.01.2023. Orders on the provisional release plea shall be



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communicated to the writ petitioners under due acknowledgement within three working days from the date/s of the orders.

Captioned writ petitions disposed of in the above manner with the aforementioned directives. There shall be no order as to costs.

06.01.2023

Index: yes

Speaking

Neutral Citation : Yes

Upload forthwith

gpa

To

1. The Chief Commissioner of Customs
Office of the Commissioner of Customs (Sea Port)
Customs House
No.66, Rajaji Salai
Chennai – 600 001
2. The Commissioner of Customs (Imports)
Office of the Commissioner of Customs (Sea Port)
Customs House
No.66, Rajaji Salai
Chennai – 600 001.
3. The Commissioner of Customs (Group VIII)
Office of the Commissioner of Customs (Sea Port)
Customs House
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M.SUNDAR, J.,

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