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W.P.Nos.5339,5376,5381,5342,5345,5347,5372,5386,53867 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.5339,5342,5345,5347,5372,5376,5381,5386 & 5387 of 2024
and

W.M.P.Nos.5914,5921,5924,5925,5869,5874,5865,5868 & 5911 of 2024

M/s.Kutty Impex,
No.83, TTK Road,
Alwarpet, Chennai – 600 004.
Rep.by its Properitor, Mrs. Sadasivam Mekala.

... Petitioner
(in WP.5339/2024)

M/s.Copy Star Exports (India) Pvt., Ltd.,
15, 2nd Floor, Kantol Niwas,
37/39, Modi Street,
Fort Mumbai – 400 001.
Rep.by its Director,
Mr. Ramesh Dharamshi Ravaria

... Petitioner
(in WP's.5342,5347 & 5387 /2024)

M/s. Atul Commodities Pvt.Ltd.,
1st Floor Back Portion, 8, Taher Mansion,
Bentinck Street, Lal Bazar,
Kolkatta – 700 001. West Bengal, India,
Rep.by its Director Akshay Kamdar

... Petitioner
(in WP.5345 & 5372 /2024)

M/s.Atul Automation Pvt, Ltd.,
No.8, Bentinck Street,
Kolkata – 700 001.
Rep.by its Director, Mr.Atul Kamdar.

... Petitioner
(in WP.5376 & 5386/2024)

M/s.Atul Automation Pvt, Ltd.,



W.P.Nos.5339,5376,5381,5342,5345,5347,5372,5386,53867 of 2024

No.8, Bentinck Street,
Kolkata – 700 001.
Rep.by its Director, Mr.Akshay Kamdar.

... Petitioner
(in WP.5381/2024)

Versus

1.The Commissioner of Customs (Chennai II) Imports,
Custom House,
No.60, Rajaji Salai,
Chennai – 600 001.

2.The Additional Commissioner of Customs (Gr.5)
Custom House,
No.60, Rajaji Salai,
Chennai – 600 001.

3.The Deputy Commissioner of Customs (Gr.5),
Custom House,
No.60, Rajaji Salai,
Chennai – 600 001.

... Respondents
(in all W.P's)

Prayer in W.P. No.5339 of 2024 : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus, directing the respondents 1-3 herein to forthwith release the various models of Secondhand Highly Specialized Equipments-Digital Multifunction Print and Copying and Scanning Machines, imported by the petitioner and which have been submitted for clearance before the respondents vide Bill of Entry No.9832810 dated 25.01.2024 on payment of applicable total taxes on the enhanced value as assessed by the Chartered Engineers M/s. APGM Engineering Services Pvt. Ltd. in their report vide Certificate No.APGM / 2324 / A123 dated 02.02.2024.

Prayer in W.P. No.5342 of 2024 : Writ Petition filed under Article



W.P.Nos.5339,5376,5381,5342,5345,5347,5372,5386,53867 of 2024

226 of the Constitution of India, pleased to issue a Writ of Mandamus, directing the respondents 1 to 3 herein to forthwith Release the various models of Secondhand Highly Specialized Equipments-Digital Multifunction Print and Copying and Scanning Machines, imported by the petitioner and which have been submitted for clearance before the respondents vide Bill of Entry No.9706013 dated 17.01.2024 on payment of applicable total taxes on the enhanced value as assessed by the Chartered Engineers M/s. SVIA Consultant Services LLP in their report vide Certificate No.SVIA / IND / CHE / 2024 / 019 dated 25.01.2024.

Prayer in W.P. No.5345 of 2024 : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus, directing the respondents 1-3 herein to forthwith Release the various models of Secondhand Highly Specialized Equipments-Digital Multifunction Print and Copying and Scanning Machines, imported by the petitioner and which have been submitted for clearance before the respondents vide Bill of Entry No.2058683 dated 09.02.2024 on payment of applicable total taxes on the enhanced value as assessed by the Chartered Engineers M/s. APGM Engineering Services Pvt. Ltd. in their report vide Certificate No.APGM / 2324 / A143 dated 16.02.2024.

Prayer in W.P. No.5347 of 2024 : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus, directing the respondents 1 to 3 herein to forthwith Release the various models of Secondhand Highly Specialized Equipments-Digital



W.P.Nos.5339,5376,5381,5342,5345,5347,5372,5386,53867 of 2024

Multifunction Print and Copying and Scanning Machines, imported by the petitioner and which have been submitted for clearance before the respondents vide Bill of Entry No.9706992 dated 17.01.2024 on payment of applicable total taxes on the enhanced value as assessed by the Chartered Engineers M/s. SVIA Consultant Services LLP in their report vide Certificate No.SVIA / IND / CHE / 2024 / 020 dated 25.01.2024.

Prayer in W.P. No.5372 of 2024 : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus, directing the respondents 1-3 herein to forthwith Release the various models of Secondhand Highly Specialized Equipments-Digital Multifunction Print and Copying and Scanning Machines, imported by the petitioner and which have been submitted for clearance before the respondents vide Bill of Entry No.9998392 dated 05.02.2024 on payment of applicable total taxes on the enhanced value as assessed by the Chartered Engineers M/s. APGM Engineering Services Pvt. Ltd. in their report vide Certificate No.APGM / 2324 / A141 dated 14.02.2024.

Prayer in W.P. No.5376 of 2024 : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus, directing the respondents 1-3 herein to forthwith Release the various models of Secondhand Highly Specialized Equipments-Digital Multifunction Print and Copying and Scanning Machines, imported by the petitioner and which have been submitted for clearance before the respondents vide Bill of Entry No.9971594 dated 04.02.2024 on payment



W.P.Nos.5339,5376,5381,5342,5345,5347,5372,5386,53867 of 2024

of applicable total taxes on the enhanced value as assessed by the Chartered Engineers M/s. SVIA Consultant Services LLP in their report vide Certificate No.SVIA / IND/ CHE/ 2024/ 049 dated 12.02.2024.

Prayer in W.P. No.5381 of 2024 : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus, directing the respondents 1-3 herein to forthwith Release the various models of Secondhand Highly Specialized Equipments-Digital Multifunction Print and Copying and Scanning Machines, imported by the petitioner and which have been submitted for clearance before the respondents vide Bill of Entry No.2017296 dated 06.02.2024 on payment of applicable total taxes on the enhanced value as assessed by the Chartered Engineers M/s. SVIA Consultant Services LLP in their report vide Certificate No.SVIA / IND/ CHE/ 2024/ 050 dated 14.02.2024.

Prayer in W.P. No.5386 of 2024 : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus, directing the respondents 1 to 3 herein to forthwith Release the various models of Secondhand Highly Specialized Equipment-Digital Multifunction Print Copying and Scanning Machines, imported by the petitioner and which have been submitted for clearance before the respondents vide Bill of Entry No.9971460 dated 04.02.2024 on payment of applicable total taxes on the enhanced value as assessed by the Chartered Engineers M/s. SVIA Consultant Services LLP in their report vide Certificate No.SVIA / IND/ CHE/ 2024/ 043 dated 09.02.2024.



W.P.Nos.5339,5376,5381,5342,5345,5347,5372,5386,53867 of 2024

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Prayer in W.P. No.5387 of 2024 : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Mandamus, directing the respondents 1 to 3 herein to forthwith Release the various models of Secondhand Highly Specialized Equipment-Digital Multifunction Print Copying and Scanning Machines, imported by the petitioner and which have been submitted for clearance before the respondents vide Bill of Entry No.9543231 dated 05.01.2024 on payment of applicable total taxes on the enhanced value as assessed by the Chartered Engineers M/s. APGM Engineering Services Pvt Ltd in their report vide Certificate No.APGM/ 2324/ A111 dated 23.01.2024.

In all W.P's:

For Petitioner : Mr. Nithyaesh Nataraj,
for Mr. Vaibhav R Venkatesh

For Respondents : Mr. B. Ramanakumar, Senior Standing Counsel,
and Mr. B. Arvind Srevatsa, Junior Standing Counsel.

COMMON ORDER

All these matters pertain to the import of second hand digital multifunction printing and copying machines.

2. Both learned counsel for the respective petitioner and learned



W.P.Nos.5339,5376,5381,5342,5345,5347,5372,5386,53867 of 2024

senior standing counsel for the Customs Department submit that a batch of writ petitions pertaining to the same goods were disposed of by order dated 23.11.2023 in W.P.Nos.29673 of 2023 batch.

3. The operative portion of the order of this Court in the above mentioned batch is as under:

“(i) W.P.Nos.28817 and 30506 of 2023 are disposed of directing the petitioners to cause reply to the show cause notice issued to them and the respondent department is directed to consider the same and pass necessary orders within a stipulated time. As far as release of goods is concerned, the same shall be released provisionally.

(ii) W.P.Nos.29673, 27544, 27547, 27548, 28115, 28119, 29678, 29680, 29684 of 2023 & 30490, 30492, 30495, 30496, 30498, 30500, 30501 & 30503 of 2023 are allowed and the following order is passed:

(a) That there shall be a direction to the respondents to consider the plea of the petitioners to release the goods by way of provisional release on condition that, the petitioner shall pay/deposit the enhanced duty amount. On receipt of such



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W.P.Nos.5339,5376,5381,5342,5345,5347,5372,5386,53867 of 2024

enhanced duty amount paid by the petitioners, the goods in question shall be released within a period of three (3) weeks thereafter.

(b) For payment of such duty, quantification shall be made by the Customs forthwith within one (1) week from the date of receipt of a copy of this order. On receipt of such quantification, the payment shall be immediately made by the petitioners and on receipt of the payment in entirety, the goods shall be released as indicated above at the outer limit of three (3) weeks.

(c) It is made clear that this order will not stand in the way for Customs Department to go ahead with the further proceedings including the adjudication in the manner known to law.

(d) It is further made clear that in the earlier interim order passed in a related writ petitions by an another Division Bench of this Court, that demurrage charges till date for the goods was directed to be considered for waiver. In this regard, if any application is filed by the petitioners seeking such a waiver of demurrage charges, the same shall be considered and decided by the respondents objectively.”



W.P.Nos.5339,5376,5381,5342,5345,5347,5372,5386,53867 of 2024

4. All these writ petitions are disposed of on the same lines.

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

06.03.2024

Index : Yes / No

Speaking Order : Yes / No

Neutral Case Citation: Yes / No

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To

1.The Commissioner of Customs (Chennai II) Imports,
Custom House,
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Chennai – 600 001.

2.The Additional Commissioner of Customs (Gr.5)
Custom House,
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SENTHILKUMAR RAMAMOORTHY, J.,



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W.P.Nos.5339,5376,5381,5342,5345,5347,5372,5386,53867 of 2024

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