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W.P.Nos.6728, 6730, 6731, 6733 & 6737 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

**W.P.Nos.6728, 6730, 6731, 6733 & 6737 of 2024
and W.M.P.Nos.7490, 7492, 7495, 7498 & 7503 of 2024**

M/s.Atul Commodities Private Limited,
No.8, Bentinck street,
Kolkata-700 001,
Represented by its Director,
Mr.Akshay Kamdar.

... Petitioner in W.P.Nos.6728 &
6733 of 2024

M/s.Pave Entertainments,
NO.9/5, Soundararajan street,
T.Nagar, Chennai-600 017,
Represented by its Proprietor,
Mrs.Padarthi Padmaja.

... Petitioner in W.P.No.6730 of 2024

M/s.Atul Automation Private Limited,
No.8, Bentinck street,
Kolkata-700 001,
Represented by its Director,
Mr.Atul Kamdar.

... Petitioner in W.P.No.6731 of 2024

M/s.Mech & Tech,
Unit-722, The Summit Business Bay,
Andheri Kurla Road,
Behind Guru Nanak Petrol Pump Opp.
Andheri-400093,
Represented by its Proprietor,
Mr.Akshay Kamdar.

... Petitioner in W.P.No.6737 of 2024

VS



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1. The Commissioner of Customs (Chennai II) Import,
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 WPs.

PRAYER in W.P.No.6728 of 2024: This Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing Respondents 1 – 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.2063604 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/A147 dated 19.02.2024.

PRAYER in W.P.No.6730 of 2024: This Writ Petition is filed under

<https://www.mhc.tn.gov.in/judis>



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Article 226 of the Constitution of India to issue a writ of Mandamus directing Respondents 1 - 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.9963597 dated 03.02.2024 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/A130 dated 08.02.2024.

PRAYER in W.P.No.6731 of 2024: This Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing Respondents 1 - 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.2062919 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/A157 dated 20.02.2024.

PRAYER in W.P.No.6733 of 2024: This Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing Respondents 1 - 3 herein to forthwith release the various models of Secondhand Highly Specialized Equipment - Digital



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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.2082674 dated 10.02.2024 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/A168 dated 24.02.2024.

PRAYER in W.P.No.6737 of 2024: This Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing Respondents 1 - 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.2059419 dated 09.02.2024 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/2024/060 dated 23.02.2024.

In all WPs

For Petitioner : Mr.Vaibhav R.Venkatesh

For Respondents: Mr.A.P.Srinivas



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Senior 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 senior standing counsel for the Customs Department submit that a batch of writ petitions pertaining to the same product were disposed of by order dated 23.11.2023 in W.P.Nos.29673 of 2023 batch. They further submit that these writ petitions may also be disposed of on the same terms.

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,



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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 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



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considered and decided by the respondents objectively."

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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.

14.03.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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To

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

2. The Additional Commissioner of Customs (CONCOR ICD),
Custom House, No.60, Rajaji Salai,
Chennai-600 001.

3. The Deputy Commissioner of Customs, (CONCOR ICD),
Custom House, No.60, Rajaji Salai,
Chennai-600 001.

SENTHILKUMAR RAMAMOORTHY J.

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