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W.P.Nos.10341, 10348, 10353, 10355, 10361 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.10341, 10348, 10353, 10355 & 10361 of 2024
and W.M.P.Nos.11340, 11346, 11351, 11353 & 11354 of 2024

M/s.Smart Impex Solutions,
behind Jainex, Parivahan, Khewat, 103/88 Sector,
14IMT Manesar, Village Bhangrola, Faruknagar,
Gurugram, Haryana 122 505
Rep. by its Proprietor, Mr.Jitender

... Petitioner in W.P.10341, 10353 of 2024

M/s.S.K.Impex,
New No.22 (Old No.10), Ist Floor, Aziz Mulk,
4th Street, Thousand Lights,
Chennai 600 006.
Rep. by its Proprietor, Mr.Ankur Chhajer

... Petitioner in W.P.10348 of 2024

M/s.Simple Machines,
B-23, Parparganj Industrial Area,
Delhi - 110 092.
Rep. by its Proprietor, Mr.Vijay Arora

... Petitioner in W.P.10355 of 2024

M/s.S P Associates
1/11959, Uldhanpur, Naveen Shahdara,
Delhi 110 032.
Rep. by its Proprietor, Mr.Yogender Partap

... Petitioner in W.P.10361 of 2024

VS



W.P.Nos.10341, 10348, 10353, 10355, 10361 of 2024

1. The Commissioner of Customs (Chennai II) Imports

Customs 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.

... 1st and 2nd Respondents in all WP's

3. The Deputy Commissioner of Customs, (Concor ICD),

Concor ICD, Tondiarpet,

Chennai-600 081.

... 3rd Respondent in W.P.10341 of 2024

3. The Deputy Commissioner of Customs, (Gr.5),

Custom House, No.60, Rajaji Salai,

Chennai-600 001.

... 3rd Respondent in W.P.10348, 10353, 10355, 10361 of 2024

PRAYER in W.P.No.10341 of 2024: Writ Petition is filed under

Article 226 of the Constitution of India to issue a Writ of Mandamus,

directing Respondents 1 – 3 herein forthwith to allow Provisional

Release of 113 units and 27 boxes of Secondhand Highly Specialized

Equipments - Digital Multifunction Print & Copying Machines of

various models and integral parts / accessories (but wrongly

mentioned as 195 pkgs in Bill of Lading no.PLS0109231264 dated

25.12.2023) the various models of Secondhand Highly Specialized

Equipments - Digital Multifunction Print & Copying Machines,



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imported by the petitioner and which have been submitted for clearance before the Respondents vide Bill of Entry No.9563921 dated 06.01.2024 on execution of Simple Bond for 100% of enhanced value of goods and also payment of applicable total GST (Customs Duty is exempted) on the enhanced value, as appraised by the Chartered Engineers M/s.Supreme Techno Associates Pvt. Ltd. in their reports vide Report No. STA/IR/O&VC/C-619/2023-2024 dated 10.02.2024.

PRAYER in W.P.No.10348 of 2024: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing Respondents 1 - 3 herein forthwith to allow Provisional Release of 237 units the various models of Secondhand Highly Specialized Equipments - Digital Multifunction Print & Copying Machines, imported by the petitioner and which have been submitted for clearance before the Respondents vide Bill of Entry No.2412387 dated 04.03.2024 on execution of Simple Bond for 100% of enhanced value of goods and also payment of applicable total GST (Customs Duty is exempted) on the enhanced value, as appraised by the Chartered Engineers M/s.APGM Engineering Services Pvt. Ltd. in their reports vide Report No. APGM/2324/ A196 dated 11.03.2024.



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PRAYER in W.P.No.10353 of 2024: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing Respondents 1 – 3 herein forthwith to allow Provisional Release of 108 units the various models of Secondhand Highly Specialized Equipments - Digital Multifunction Print & Copying Machines, imported by the petitioner and which have been submitted for clearance before the Respondents vide Bill of Entry No.9562975 dated 06.01.2024 on execution of Simple Bond for 100% of enhanced value of goods and also payment of applicable total GST (Customs Duty is exempted) on the enhanced value, as appraised by the Chartered Engineers M/s.Supreme Techno Associates Pvt. Ltd. in their reports vide Report No. STA/IR/O&VC/C-619/2023-2024 dated 10.02.2024.

PRAYER in W.P.No.10355 of 2024: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing Respondents 1 – 3 herein forthwith to allow Provisional Release of 96 units the various models of Secondhand Highly Specialized Equipments - Digital Multifunction Print & Copying



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Machines, imported by the petitioner and which have been submitted for clearance before the Respondents vide Bill of Entry No.2540404 dated 12.03.2024 on execution of Simple Bond for 100% of enhanced value of goods and also payment of applicable total GST (Customs Duty is exempted) on the enhanced value, as appraised by the Chartered Engineers M/s.APGM Engineering Services Pvt. Ltd. in their reports vide Report No. APGM/2324/ A207 dated 18.03.2024.

PRAYER in W.P.No.10361 of 2024: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing Respondents 1 – 3 herein forthwith to allow Provisional Release of 108 units the various models of Secondhand Highly Specialized Equipments - Digital Multifunction Print & Copying Machines, imported by the petitioner and which have been submitted for clearance before the Respondents vide Bill of Entry No.2751108 dated 26.03.2024 on execution of Simple Bond for 100% of enhanced value of goods and also payment of applicable total GST (Customs Duty is exempted) on the enhanced value, as appraised by the Chartered Engineers M/s.APGM Engineering Services Pvt. Ltd. in their reports vide Report No. APGM/2325/ A006 dated 03.04.2024.



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W.P.Nos.10341, 10348, 10353, 10355, 10361 of 2024

For Petitioner : Mr.Nithyaesh Natraj
in all WP's for Mr.Vaibhav R.Venkatesh

For Respondents: Mr.G.Meganathan, Jr. SC
in all WP's

COMMON ORDER

These writ petitions pertain to the import of second hand digital multifunction printing and copying machines.

2. Both learned counsel for the petitioner and learned junior 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:



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“(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 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.



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(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."*

4. W.P.Nos.10341, 10348, 10353, 10355 and 10361 of 2024 are disposed of on the same lines. Consequently, W.M.P.Nos.11340, 11346, 11351, 11353 and 11354 of 2024 are closed. There shall be no order as to costs.

18.04.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No
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SENTHILKUMAR RAMAMOORTHY J.

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