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W.P.Nos.11975, 11979, 12127 & 12130 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2024

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.11975, 11979, 12127 & 12130 of 2024
and W.M.P.Nos.13066, 13068, 13222 & 13227 of 2024

M/s.Tulsai Enterprises,
Shop No.22, Marmaid 1,
Plot No.32/33, Sector 11 CBD,
Belapur Thane,
Navi Mumbai-400 614,
Represented by its Proprietor,
Mr.Harish Gagal.

... Petitioner in W.P.Nos.11975
& 11979 of 2024

M/s.Arihant Enterprises,
FU 61, Vishakha Enclave,
Pitampura, New Delhi,
Pin Code 110 034,
Represented by its Proprietor,
Mr.Anil Jain.

... Petitioner in W.P.Nos.12127
& 12130 of 2024

VS

1. The Commissioner of Customs,
Chennai II Import Commissionerate,
Custom House, No.60, Rajaji Salai,
Chennai-600 001.
2. The Additional Commissioner of Customs (Gr.5),
Chennai II Import Commissionerate,
Custom House, No.60, Rajaji Salai,
Chennai-600 001.

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



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Custom House, No.60, Rajaji Salai,
Chennai-600 001.

... Respondents in
all WPs.

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Prayer in W.P.No.11975 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 namely used Digital Multifunction print, copying and scanning machines, numbering 216 units imported by the petitioner under Bill of Entry No.2705388 dated 22.03.2024 on assessment and collection of the applicable customs duties leviable on the said goods by computing the said duties on the enhanced value, as appraised by the DGFT approved Chartered Engineers M/s. APGM Engineering Services Pvt Ltd in their report Certificate No. APGM/2425/A025 dated 06.04.2024.

Prayer in W.P.No.11979 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 namely used Digital Multifunction print, copying and scanning machines, numbering 192 units imported by the petitioner under Bill of Entry No.2705389 dated 22.03.2024 on assessment and collection of the applicable customs duties leviable on the



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said goods by computing the said duties on the enhanced value, as appraised by the DGFT approved Chartered Engineers M/s. APMG Engineering Services Pvt Ltd in their report Certificate No. APMG/2425/A014 dated 05.04.2024.

Prayer in W.P.No.12127 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 namely used Digital Multifunction print, copying and scanning machines, numbering 106 units imported by the petitioner under Bill of Entry No.2814492 dated 30.03.2024 on assessment and collection of the applicable customs duties leviable on the said goods by computing the said duties on the enhanced value, as appraised by the DGFT approved Chartered Engineers M/s. Perfect Chartered Engineers & Surveyors in their report Certificate No.PER/CEC/IMP/SEA-017/2024-2025 dated 10.04.2024.

Prayer in W.P.No.12130 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 namely used Digital Multifunction print, copying and scanning machines, numbering 112 units imported by the petitioner under Bill of Entry No.2824311 dated 31.03.2024



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on assessment and collection of the applicable customs duties leviable on the said goods by computing the said duties on the enhanced value, as appraised by the DGFT approved Chartered Engineers M/s. Perfect Chartered Engineers & Surveyors in their report Certificate No.PER/CEC/IMP/SEA-017/2024-2025 dated 06.04.2024.

In all WPs

For Petitioners : Mr.N.Viswanathan

For Respondents : Mr.G.Meganathan,
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 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:

“(i) W.P.Nos.28817 and 30506 of 2023 are disposed of



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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.

(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.



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(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. 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.

03.06.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

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To

1. The Commissioner of Customs,
Chennai II Import Commissionerate,
Custom House, No.60, Rajaji Salai,
Chennai-600 001.



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2. The Additional Commissioner of Customs (Gr.5),
Chennai II Import Commissionerate,
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.

SENTHILKUMAR RAMAMOORTHY J.

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and W.M.P.Nos.13066, 13068, 13222 & 13227 of 2024

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