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W.P.Nos.11402, 11394, 11399, 11405, 11406 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.11402, 11394, 11399, 11405 & 11406 of 2024
and W.M.P.Nos.12505, 12493, 12502, 12512 & 12513 of 2024

M/s.Atul Commodities Private Limited,
No.8, Bentinck Street,
Kolkata - 700 001

Rep. by its Director, Askhay Kamdar

... Petitioner in W.P.11402, 11394, 11405, 11406 of 2024

M/s.Radiance Enterprises,
No.27, 5th North Telephone Colony,
Madhavaram Milk Colony,
Chennai 600 051.

Rep. by its Proprietor T.A.Mahesh

... Petitioner in W.P.11399 of 2024

vs

1. The Commissioner of Customs (Chennai II) Import
Customs House, No.60, Rajaji Salai,
Chennai-600 010.

2. The Additional Commissioner of Customs (Gr.5),
Custom House, No.60, Rajaji Salai,
Chennai-600 010.

3. The Deputy Commissioner of Customs, (Gr.5),
Custom House, No.60, Rajaji Salai,
Chennai-600 010.

... Respondents in all WP's



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WEB COURT

PRAYER in W.P.No.11402 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 release the various models of Secondhand Highly Specialized Equipment - Digital Multifunction Print, Copying & Scanning Machines, imported by the Petitioner and which have been submitted for clearance before the Respondents vide Bill of Entry No.2585515 dated 15.03.2024 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/2024/105 dated 21.03.2024.

PRAYER in W.P.No.11394 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 release the various models of Secondhand Highly Specialized Equipment - Digital Multifunction Print, Copying & Scanning Machines, imported by the Petitioner and which have been submitted for clearance before the Respondents vide Bill of Entry No.2585092 dated 15.03.2024 on



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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/2024/105 dated 25.03.2024.

PRAYER in W.P.No.11399 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 release the various models of Secondhand Highly Specialized Equipment - Digital Multifunction Print, Copying & Scanning Machines, imported by the Petitioner and which have been submitted for clearance before the Respondents vide Bill of Entry No.2641894 dated 19.03.2024 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/A241 dated 27.03.2024.

PRAYER in W.P.No.11405 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 release the various



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models of Secondhand Highly Specialized Equipment - Digital Multifunction Print, Copying & Scanning Machines, imported by the Petitioner and which have been submitted for clearance before the Respondents vide Bill of Entry No.2727331 dated 24.03.2024 on payment of applicable total taxes on the enhanced value, as assessed by the Chartered Engineers M/s.Perfect Chartered Engineers & Surveyors in their report vide Certificate No.PER/CEC/IMP-SEA-010/2024-25 dated 03.04.2024.

PRAYER in W.P.No.11406 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 release the various models of Secondhand Highly Specialized Equipment - Digital Multifunction Print, Copying & Scanning Machines, imported by the Petitioner and which have been submitted for clearance before the Respondents vide Bill of Entry No.2812885 dated 30.03.2024 on payment of applicable total taxes on the enhanced value, as assessed by the Chartered Engineers M/s.Perfect Chartered Engineers & Surveyors in their report vide Certificate No.PER/CEC/IMP-SEA-013/2024-25 dated 04.04.2024.



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For Petitioner : Mr.V.Akash Srinanda
in all WP's

For Respondents: Mr.Rajinish Pathyil, Sr. 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 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:



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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.11402, 11394, 11399, 11405 and 11406 of 2024 are disposed of on the same lines. Consequently, W.M.P.Nos.12505, 12493, 12502, 12512 and 12513 of 2024 are closed. There shall be no order as to costs.

30.04.2024

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

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and W.M.P.Nos.12505, 12493, 12502, 12512 & 12513 of 2024

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