IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **26.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.15861 of 2024
and W.M.P.No.17295 of 2024

M/s.Skylark Office Machines,
Shop No.4, Ground Floor, Door No.10
Aziz Nulk, 4th Street, Thousand Lights
Chennai-600 006,
Rep. by its Manager, Hem Chand Dubey ... Petitioner

-vs-

1.The Commissioner of Customs (Chennai II) Imports,
Custom 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),
Concor ICD, Tondiarpet,
Chennai-600 081. ... Respondents

PRAYER: 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 196 Units the various models of Secondhand Highly Specialized Equipments – Digital Multifunction Print & Copying Machines, imported by the Petitioner and which have been submitted for clearances before the Respondents vide Bill of Entry No.3187169 dated 24.04.2024 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 report No.STA/IR/O&VC/C-135/2024-2025 dated 10.05.2024.

For Petitioner : Mr.Vaibhav R.Venkatesh

For Respondents : Mr.K.Mohana Murali
Senior Standing Counsel

ORDER

This matter pertains to the import of second hand digital multifunction printing and copying machines.

2. Learned counsel for the petitioner submits 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. He further submits that this writ petition may also be disposed of on the same terms.

3. Learned senior standing counsel refers to the amendment made to

the Foreign Trade Policy, 2023 and contends that such amendment would deter the provisional release of these goods. Learned counsel for the petitioner submits that the amendment was made with effect from 20.05.2024, whereas the goods covered by the bills of entries forming the subject of this writ petition were imported prior to the date of amendment. In these circumstances, I am inclined to follow the earlier orders.

4. 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.*
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> *(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.

(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."

5. W.P.No.15861 of 2024 is disposed of on the same lines. Consequently, W.M.P.No.17295 of 2024 is closed. There shall be no order as to costs.

26.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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SENTHILKUMAR RAMAMOORTHY,J
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