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W.P.Nos.16183, 16187, 16188, 16190 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.16183, 16187, 16188 & 16190 of 2024
and W.M.P Nos.17729, 17731, 17734 & 17736 of 2024

M/s.HNC Internationa,
H-137, DDAFlats, Ashok Vihar,
Phase - 1,
Delhi - 110 052.

Rep. by its Director, Mr.Himanshu Chanana

... Petitioner in W.P.16183 of 2024

M/s.Copy Star Export (India) Pvt. Ltd.
No.15, 2nd Floor, Kantol Nias,
37/39, Modi Street,
Fort Mumbai - 400 001.

Rep. By its Director, Mr.Govind Dharamshi Ravaria

... Petitioner in W.P.16187 of 2024

M/s.M.D.Exims,
B-803, Silver Nesst, Besides Waves,
Near Konark Near Canal, Bhayli Road,
Vadodara - 391 410,

Rep. by its Proprietor, Gautam Sharma

... Petitioner in W.P.16188 of 2024

M/s.Photofax System,
1280, Dr.Mukherjee Nagar,
Delhi - 110 009.

Rep. By its Director, Mr.Munish Kumar

... Petitioner in W.P.16190 of 2024



W.P.Nos.16183, 16187, 16188, 16190 of 2024

-VS-

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.
3. The Deputy Commissioner of Customs, (Gr.5),
Custom House, No.60, Rajaji Salai,
Chennai-600 001.

... Respondents in W.P.16183, 16188, 16190 of 2024

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 W.P.16187 of 2024

PRAYER in W.P.No.16183 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 114 Units the various models of Secondhand Highly Specialized Equipments - Digital Multifunction Print & Copying Machines, imported by the Petitioner and which have been submitted



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for clearance before the Respondents vide Bill of Entry No.3167186 dated 23.04.2024 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.APGM Engineering Services Pvt. Ltd. in their report No.APGM/2425/A101 dated 03.05.2024.

PRAYER in W.P.No.16187 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 to 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.3448387 dated 12.05.2024 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-125/2024-25 dated 23.05.2024.

PRAYER in W.P.No.16188 of 2024: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus



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directing Respondents 1 – 3 herein forthwith to allow Provisional Release of 122 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. 3371686 dated 07.05.2024 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 report No. APGM/2425/A145 dated 16.05.2024.

PRAYER in W.P.No.16190 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 110 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. 3035720 dated 15.04.2024 on execution of Simple Bond for 100% of enhanced value of goods and also payment of applicable total GST (Customs



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Duty is exempted) on the enhanced value, as appraised by the Chartered Engineers M/s. APGM Engineering Services Pvt. Ltd. in their report No. APGM/2425/A059 dated 22.04.2024.

For Petitioner : Mr.Nithyesh Nataraj,
in all WP's for Mr.Vaibhav R.Venkatesh

For Respondents: Mr.Avinash Wadhwani, Jr. SC
in all WP's

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.



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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, 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



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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."

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.

02.07.2024

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

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