IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE N.TUKARAMJI

WRIT PETITION NO: 4741 OF 2024

Between:

M/s. Chaitanya and Co., rep. by its Managing Partner, Mr. Kuruvella Krishna Chaitanya, Shop No.3, Plot No.22, 23 and 24, Lotus Anjali Apartments, KPHB Colony, 5th Phase, Kukatpally, Hyderabad-500 072.

...PETITIONER

AND

1. Superintendent of Customs, (ICD-Thimmapur), Hyderabad Customs Commissionerate, Hyderabad.
2. Union of India, rep. by its Secretary, Ministry of Finance, Jeevan Deep Building, 3rd Floor, Sansad Marg, New Delhi-110 001.
3. Joint Commissioner of Customs, (Imports), GST Bhavan, Basheerbagh, Hyderabad-500 004.
4. Deputy Commissioner of Customs, ICD, Thimmapur-509 325, Telangana.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ or order or direction setting aside the Seizure Memo date 26.12.2023 issued by the 1st Respondent as being without jurisdiction and contrary to the Foreign Trade Policy, 2023-24 and consequently direct the 1st Respondent to forthwith release the Petitioner's imported consignment of Multi-Function Devices of 178 units under Bill of Entry dated 05.12.2023, bearing No.9073960.

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 1st Respondent to forthwith release the goods of 178 units of MFDs that have been seized under the Seizure Memo dated 26.12.2023, pending disposal of the Writ Petition, as otherwise the Petitioner will be put to severe loss and hardship.

Counsel for the Petitioner : SRI KARTHIK RAMANA PUTTAMREDDY

Counsel for the Respondents No.1,3&4 : SRI DOMINIC FERNANDES,
(Senior Standing Counsel for CBIC)

Counsel for the Respondents No.2 : SRI B.MUKHERJEE,
rep., SRI GADI PRAVEEN KUMAR,
DY. SOL. GEN

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE P.SAM KOSHY

AND

THE HON'BLE SRI JUSTICE N.TUKARAMJI

W.P. No.4741 of 2024

ORDER: *(per Hon'ble Sri Justice P.SAM KOSHY)*

Heard Mr. Dwarkanath, learned Senior Counsel representing Mr. Karthik Ramana Puttamreddy, learned counsel for the petitioner, Mr. Dominic Fernandes, learned Senior Standing Counsel for CBIC appearing for respondent Nos.1, 3 and 4 and Mr. B. Mukherjee, learned counsel representing Mr. Gadi Praveen Kumar, learned Deputy Solicitor General of India appearing for Union of India/respondent No.2. Perused the entire record.

2. The challenge in the present writ petition is to the Seizure Memo dated 26.12.2023 issued by respondent No.1.

3. Today when the matter is taken up, there has been a statement made before the Bench that the issue involved in the instant case has already been considered and decided by this very Bench in two writ petitions of identical nature i.e. W.P.No.843 and W.P.No.2014 of 2024. Both of the writ petitions stood allowed and decided by order dated 08.02.2024.

4. In view of the fact that identical issues have already been decided by this Bench, we are inclined to allow the instant writ petition also on identical terms. It is ordered that let the respondent authorities pass an order on the application filed by the petitioner for provisional release of the goods subject to the conditions that:

a) The petitioner shall pay/deposit the enhanced duty amount. On receipt of such enhanced duty amount paid by the petitioner, the goods in question shall be released within a period of four (04) weeks thereafter.

b) For payment of such duty, quantification shall be made by the Customs forthwith within one (01) 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 petitioner and on receipt of the payment in entirety, the goods shall be released as indicated above at the outer limit of four (04) 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 so far as the condition of the petitioner that demmurage charges till date, for the goods be considered for waiver, in this regard, if any application is filed by the petitioner seeking such a waiver of demmurage charges, the same shall be considered and decided by the respondents objectively.

5. In addition, the petitioner is also directed to provide a bank guarantee worth 10 percent of the total price of the goods imported by them. Further, it is also ordered that in the event if the petitioner upon release of the goods provisionally make and sell the supply to its customers, details of the customers that of relevant price and details of the respective transactions shall be maintained and made available to the respondent authorities from time to time.

6. The present Writ Petition accordingly stands allowed. However, there shall be no order as to costs. Consequently, miscellaneous petitions pending if any, shall stand closed.

SD/-V.KAVITHA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

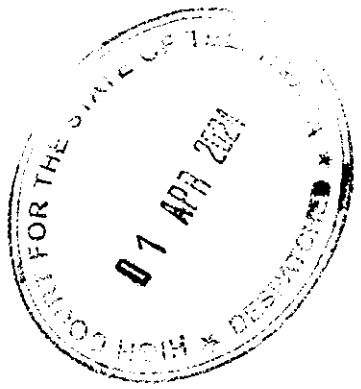
1. The Superintendent of Customs, (ICD-Thimmapur), Hyderabad Customs Commissionerate, Hyderabad.
2. The Secretary, Ministry of Finance, Jeevan Deep Building, 3rd Floor, Sansad Marg, Union of India, New Delhi-110 001.
3. The Joint Commissioner of Customs, (Imports), GST Bhavan, Basheerbagh, Hyderabad-500 004.
4. The Deputy Commissioner of Customs, ICD, Thimmapur-509 325, Telangana.
5. One CC to SRI KARTHIK RAMANA PUTTAMREDDY, Advocate. [OPUC]
6. One CC to SRI DOMINIC FERNANDES, (Senior Standing Counsel For CBIC) [OPUC]
7. Two CD Copies.

BSK
GJP

& one cc to SRI GADI PRAVEEN KUMAR, Dy. Sol. Gen. [OPUC]

HIGH COURT

DATED:22/02/2024



ORDER

WP.No.4741 of 2024

ALLOWING THE WRIT PETITION
WITHOUT COSTS

(10) Copies
Bm
16/3/24