IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-09-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 10462 of 2025

Mr.S.U.Sirajdeen
Proprietor of M/s.Gravity Ventures
No.96A, Sri Ganapathy Complex,
2nd Floor, A.K.Nagar, Sai Baba Colony
Coimbatore 641 011 Petitioner

Vs

1. The Principal Commissioner Of Customs (Preventive)
Custom House, No.60, Rajaji Salai
Chennai 600 001

2. The Specified Officer
NDR Infrastructure Private Ltd
Special Economic Zone
Nandiyambakkam Port Road
Tiruvallur, Tamilnadu 600 120 Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Intimation Letter dated 06.03.2025 issued in DIN:20250373MX0000393075 sent by the 1st respondent and quash the same and further direct the respondents to provisionally release the subject goods covered by Bills of Entry Nos.7574986 dated 02.01.2025, 7575180 dated 02.01.2025, 7648220 dated 07.01.2025, 7674955 dated 08.01.2025, 7790419 dated 15.01.2025 by a reasonable security fixed by this Hon'ble Court within a stipulated time frame.

For Petitioner : Mr.Hari Radhakrishnan

For Respondents : Mr.K.S.Ramaswamy
Senior Panel Counsel for R1

ORDER

This writ petition has been filed challenging the impugned Intimation Letter dated 06.03.2025 sent by the first respondent and for a consequential direction to the respondents to provisionally release the subject goods covered by five bills of entries.

2. The petitioner had imported goods which are 'knitted fabrics' vide seven bills of entries and the goods were moved to the Special Economic Zone situated at Nandiyambakkam, Chennai. The petitioner had approached the second respondent for clearance of the shipments from the Special Economic Zone unit. The petitioner was informed that the DRI officials have initiated investigation into all the imports of various kinds of fabrics and further informed that unless and until the test reports of all the consignments are obtained, no goods lying in the Free Trade Warehousing Zone would be released or permitted to be cleared. The DRI seized the goods covered by the subject bills of entry through a seizure memo dated 13.02.2025. The DRI also issued

NOC with regard to the petitioner's request for provisional release of the goods covered under five bills of entries. Considering the NOC given by DRI, this Court passed an order in W.P.No.4279 of 2025 dated 14.02.2025 directing the first respondent to provisionally release the goods after collecting the bond or bank guarantee or security deposit, as the case may be.

3. Pursuant to the above order, the first respondent has issued the impugned intimation letter dated 06.03.2025 directing the petitioner to furnish bank guarantee to the tune of Rs.2,80,00,000/- and a bond equivalent to the re-determined value of the goods, which is Rs.3,15,01,438/-. Aggrieved by the same, the present writ petition has been filed before this Court.

4. The learned counsel for petitioner submitted that the issue involved in the present case is squarely covered by the earlier order passed by this Court in W.P.No.32472 of 2025 dated 18.09.2025. The learned counsel submitted that the conditions that were imposed by this Court in that order can be applied to the petitioner also and the petitioner will abide by the same.

5. The learned Senior Panel Counsel appearing on behalf of the first respondent vehemently opposed the relief sought for by the petitioner, on the ground that the authority has re-determined the value of the goods to the tune of Rs.3,15,01,438/- and if at all the petitioner wants the release of the goods, the petitioner has to either pay the re-determined duty for the re-determined value

or furnish a bank guarantee as has been directed by the first respondent to the tune of Rs.2,80,00,000/-. The learned counsel submitted that the intimation letter that has been put to challenge in the present writ petition does not warrant the interference of this Court.

6. This Court has carefully considered the submissions made by the learned counsel on either side and the materials available on record.

7. The first respondent has exercised jurisdiction under Section 110A of the Customs Act, 1962. The first respondent has taken into consideration the re-determined value of the goods under the five bills of entries to the total tune of Rs.3,15,01,438/- and the petitioner is supposed to pay the re-determined duty, which comes to Rs.1,43,21,357/-. It is stated that the matter is at the stage of issuance of notice to the petitioner and the adjudication is pending. Under such circumstances, this Court must only see as to whether the conditions imposed by the first respondent in the intimation letter require the interference of this Court.

8. The above issue was dealt with by this Court in W.P.No.32472 of 2025 and by order dated 18.09.2025, this Court held as follows:-

> "12. This Court is not dealing with the merits of the case since what has been put to challenge is the provisional release order and that too questioning some of the onerous conditions. While undertaking this exercise, it will suffice to

take note of some of the earlier orders passed by this Court. One such order was passed in the case of **Green Line Vs. Commissioner of Customs, Chennai-IV**, reported in **2016 (340) E.L.T 140 (Mad)**. That was also a case, which involved differential duty of non prohibited goods. Similar conditions were imposed and the said writ petition was disposed of by this Court in the following terms:

> *"8. In the light of the above discussions, the Writ Petition is disposed of with the following directions:*
>
> *(i) The petitioner is directed to remit the entire duty as assessed by them;*
>
> *(ii) The petitioner is directed to pay 50% of the differential duty which has been arrived at by the Department as Rs. 22.72 lakhs;*
>
> *(iii) The petitioner is directed to execute a bond for the remaining amount to the satisfaction of the respondents.*
>
> *(iv) The petitioner shall execute an indemnity bond stating that in the event of Shri.S.Ariya raising any claim over the goods or concerning the use of IEC code issued in favour of M/s. Green Line, the petitioner Mr.Mohamed Kalith alone would be fully responsible for the same and no liability can be fastened on the respondent Department and the indemnity bond should be furnished in the form approved by the respondents."*

13. This order of the learned Single Judge was subsequently confirmed by the Hon'ble Division Bench of this Court in **W.A.No.1243 of 2016 dated 25.10.2016**. It is also relevant to take note of a Division Bench order of this Court in the case of **Commissioner of Customs and Others vs. Sri Venkateshwara Paper Boards Rep.by its General Manager Mr.L.Barath** reported in **2022 (379) E.L.T 310 (Mad)**, which involved prohibited goods and the writ petition was disposed of in the following terms:

> *"32. We have perused the order dated 29.12.2020 permitting provisional release of the cargo, subject to the following conditions:*
>
> *(a) execution of a bond for Rs.34,65,334/-,*
>
> *(b) production of cash security/bank guarantee for Rs. 12,12,867/- towards redemption fine and penalty, and*
>
> *(c) payment of duty of Rs. 9,43,411/-.*
>
> *33.We find nothing unreasonable about conditions (a) and (c), however condition (b) is concerned directing the Importer to furnish Bank guarantee/cash security towards redemption fine and penalty would be harsh as the show-cause notice is yet to be adjudicated. Therefore, we modify the condition (b) alone by directing the Importer to execute the bond for Rs. 12,12,867/-.*
>
> *34. On compliance of the execution of the bond for the amount mentioned in conditions (a) and (b) supra and payment of duty as mentioned in condition (c), the Revenue shall permit*

provisional release of the cargo within seven (7) days therefrom, which shall be subject to the result of the adjudication of the show-cause notice."

14. In the case in hand, the goods that are involved are Viscose Knitted Fabric, which according to the Department has been misclassified and undervalued. Therefore, the Department is proceeding further with the adjudication proceedings. Pending the same, the impugned provisional release order has been passed.

15. The conditions that have been imposed in the provisional release order are as follows:

<u>Specific Conditions</u>:

1. The importer shall file the DTA Bill of Entry for provisional release for the re-determined value and shall pay re-determined duty as mentioned in seizure memo and / or NOC issued by the DRI, HQ, New Delhi. The Bill of Entry shall be assessed in view of pending investigation.

2. The importer shall execute a Bond for Rs.91,00,000/- (Rupees Ninety One Lakhs only)

3. The importer shall furnish a Bank Guarantee(BG) for Rs.22,00,000/- (Rupees Twenty Two Lakhs only)

16. Taking into consideration the facts and circumstances of the case and considering the grounds raised in the writ petition and also taking into consideration of the earlier

orders passed by this Court, this Court is inclined to modify the conditions imposed in the provisional release order as follows:

a) The petitioner is directed to remit the entire duty as declared by them.

b) The petitioner is directed to pay 50% of the differential duty for the total value arrived at by the Department at Rs.90,95,299.23/-

c) The petitioner shall execute a bond for a sum of Rs.91,00,000/-(Rupees Ninety One Lakhs only) and

d) The petitioner shall also execute a bond for a sum of Rs.22,00,000/- (Rupees Twenty Two Lakhs only) instead of Bank Guarantee. On compliance, the goods shall be released by the respondents within a period of seven days from the date of compliance of the conditions."

9. The above yardstick can be applied in the present case also and hence, this Court is inclined to modify the conditions imposed in the impugned intimation letter issued by the first respondent, as follows:-

a) The petitioner is directed to remit the entire duty as declared by them;

b) The petitioner is directed to pay 50% of the differential duty for the total value arrived at by the Department to the tune of Rs.3,15,01,438/-;

c) The petitioner shall execute a bond for a sum of Rs.3,15,01,438/-(Rupees Three Crores Fifteen Lakhs One Thousand Four Hundred Thirty Eight only) and

d) The petitioner shall also execute a bond for a sum of Rs.2,80,00,000/- (Rupees Two Crores Eighty Lakhs only) instead of Bank Guarantee. On compliance, the goods shall be released by the respondents within a period of seven days from the date of compliance of the conditions.

10. This writ petition is disposed of in the above terms. Consequently, W.M.P.No.11776 of 2025 is closed. No costs.

23-09-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

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To

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

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