IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2025

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THE HONOURABLE DR. JUSTICE **G.JAYACHANDRAN**
and
THE HONOURABLE MR. JUSTICE **MUMMINENI SUDHEER KUMAR**

C.M.P. No.12964 of 2025
in A.S.No.548 of 2024

Central Warehousing Corporation,
Central Warehouse,
21/B, SIDCO Industrial Estate,
Ambattur, Chennai – 600 098. .. Petitioner

vs.

1.Prime Source Technologies Pvt. Ltd.,
No.24, Ramakrishna Street,
T.Nagar, Chennai – 600 017.

2.The Government of India
rep. By Secretary,
Central Board of Excise and Customs,
New Delhi – 110 001.

3.The Commissioner of Customs,
Office of the Commissioner of Customs,
Chennai – 600 001. ... Respondents

Petition praying to permit the petitioner to relocate the bonds in subject matter of A.S.No.548 of 2024 from CWC, ambattur to CWC, Madhavaram.

For Petitioner : Mr.D.Baskar

For Respondents : Mr.T.M.Hariharan for R1
Mr.J.Hari Krishna,
Standing Counsel for R2 & R3

ORDER

(Order of the Court was made by **DR.G.JAYACHANDRAN, J.**)

Computer peripherals worth 49651.90 US$ imported by Prime Source Technologies Private Limited (Appellant in A.S.No.548 of 2024) was detained by the Customs Department under Section 72 of the Customs Act on the premise that the classification for assessment of duty is not in consonance with the nature of the goods imported. The bill of entry and the bond executed by the importer were found to be misdeclared to evade duty. In the said scenario, the importer filed suit, claiming that the goods were erroneously detained and thereby the Customs Department had caused loss to the tune of Rs.9,33,356.48 being the value of the goods. Further, the Customs Department is also liable to compensate Rs.6,745.85 towards expenses for importer and Rs.11,75,127.92 towards interest, totalling a sum of Rs.21,15,230.25 with future interest till the date of realisation.

2. The importer had approached the civil Court after exploring his remedy of preferring appeal before the Appellate Authority and also filing writ petition seeking mandamus to release the goods. The importer had contended that the cargo was detained wrongfully. It has lost its commercial value. Hence, he is not liable to pay the storage charges to the warehouse and a declaration relief to that effect prayed in the suit.

3. Defendants 1 and 2 namely the Customs Department contested the suit stating that the goods have been detained as per the provisions of the Customs Act. The contention of the plaintiff that tariff over the static converters - UPS is only under the heading 8543.83 and not under 8504.40 is emphatically denied by the Customs Department.

4. On framing appropriate issues, the trial Court dismissed the suit holding that the Customs Department cannot be held liable for non-clearance of the goods since goods have been imported by misdeclaration claiming concessional tariff. Having not cleared the

goods after executing the indemnity bond as directed by the Hon'ble High Court in the writ petition filed by the importer, the trial Court has held that the importer is not entitled for any waiver of storage charge. Being aggrieved by the dismissal of the suit, the importer has come forward with Appeal Suit No.548 of 2025 on the ground that the trial Court has erred in holding the importer responsible for the delay in not clearing the goods and providing wrong tariff number for the goods imported. For the computer peripherals, the tariff 8504.40 alone is applicable and not tariff 8543, as contended by the Customs Department.

5. While appeal is pending, the Regional Commissioner of the Warehouse, who is the third defendant in the suit and third respondent in the appeal has taken out a petition stating that the goods detained by the Customs Department invoking Section 72 of the Customs Act are stored in the custom warehouse at Ambattur for more than thirty years. Neither the Customs Department on whose instructions goods were received and stored nor the importer has paid the storage charge and got the goods cleared. Since the warehouse at Ambattur requires demolition and reconstruction, permission is sought for shifting 118

packages of cargo which is the subject matter of A.S.No.548 of 2024 arising from the suit in O.S.No.143 of 2015 on the file of I Additional City Civil Court, Chennai, from warehouse at Ambattur to their warehouse at Madhavaram.

6. Learned counsel appearing for the importer/Appellant states that they have no objection in shifting the said cargo. Learned standing counsel for the Customs Department submitted that under Section 59(3) of the Customs Act, Ministry of Finance had issued a circular on 31.05.2016 wherein it is stated that for any shifting of cargo from one warehouse to another, the importer, who has executed the bond for the cargo, has to make a request and execute a fresh bond. The warehouse owner cannot seek for shifting of cargo.

7. This Court on perusing the said circular finds that this circular was issued on 31.05.2016 whereas the cargo which is subject matter of the present appeal was warehoused on 15.05.1996 i.e., 20 years prior to the circular. The bond executed by the importer expired as early as 23.05.1997 and it was never renewed for the past nearly 30 years. In the said circumstances, Section 59(3) of the Customs Act as

well as circular issued by the Government of India dated 31.05.2016 are of no application. Appropriate officer of the Customs Department in this case ought to have taken a conscious decision regarding cargo which is lying in the warehouse for the past 30 years without paying any storage charge. When a request for shifting the cargo from Customs Warehouse, Ambattur to Customs Warehouse, Madhavaram is made, the same is opposed citing the circular issued on 31.05.2016, which will apply only when the bond executed by the importer is in force. The cargo as on date is almost abandoned by the importer. This fact is very explicit from his pleadings in the suit. Under said circumstances, a warehouse, which now requires demolition and reconstruction, cannot be forced to keep the cargo at the same place.

8. In fact, repealed Section 63 of the Customs Act enables the warehouse owner to sell the goods with the prior permission of the Appropriate Officer of the Customs Department for recovery of the rent or warehouse charges. This provision came to be repealed under Act 28 of 2016 much after storage charge due and payable in this case. In any event, now the point for consideration is, whether the warehouse owner can shift the cargo from Ambattur to Madhavaram

without bond from the importer. On perusal of the provisions of the Customs Act, this Court finds there is no legal impediment in shifting the cargo. The issue who has to pay storage charge will be subject to the outcome of the appeal. As far as the prayer sought in this petition, in the considered view of this Court, it has to be allowed and accordingly, it is allowed.

9. The Appropriate Officer of the Customs Department to be intimated before shifting of the cargo from Ambattur to Madhavaram. On receipt of the intimation, the Appropriate Officer shall supervise the shifting and record the shifting.

10. Post the main appeal for final hearing on 23.10.2025.

[G.J., J.] [M.S.K., J.]
25.09.2025

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To

1.The Secretary to Government,
Central Board of Excise and Customs,
New Delhi – 110 001.

2.The Commissioner of Customs,
Office of the Commissioner of Customs,
Chennai – 600 001.

DR.G.JAYACHANDRAN, J.
and
MUMMINENI SUDHEER KUMAR, J.

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