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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2025

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THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.No.19001 of 2024

M/s.Brill India Pvt.ltd.,
No.106, 8th Main Road, Malleswaram,
West Bangalore,
Karnataka - 560 055
rep. by its Director, Mr.R.Jayaram

.....Petitioner

Vs

1. The Commissioner of Customs (CFS)
Chennai IV Commissionerate,
No.60, Rajaji Salai, Customs House,
Chennai - 600 001.
2. The Commissioner of Customs (Gr.6),
Chennai II Import Commissionerate,
No.60, Rajaji Salai, Customs House,
Chennai - 600 001.
3. The Additional Commissioner of Customs (Gr.6),
Chennai II Import Commissionerate,
No.60, Rajaji Salai, Customs House, Chennai - 600 001.
4. The Asst/Deputy Commissioner of Customs (Gr.6),
Chennai II Import Commissionerate,
No.60, Rajaji Salai, Customs House,
Chennai - 600 001.
5. M/s. Chandra CFS and Terminal Operators Pvt.Ltd.,
Kammavari, V.K.Palayam, N.K.Palayam Road,
Nalur Minjur, Thiruvallur District 601 203. ..Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents 1 to 4 herein to take appropriate action as against the 5th respondent, M/s. Chandra CFS and Terminal Operators Pvt.Ltd., for non-complying the Detention waiver Certificate dated 19.12.2023 issued by the 4th respondent herein concerned the re-import of goods, vide Bill of Entry No.4281619 dated 11.06.2021 by considering the representation of the petitioner dated 19.01.2024.

For Petitioner : Mr.S.Baskaran

For Respondents : Mr. Rajnish Pathiyil,
Senior Panel Counsel for R1 to R4
Dr.R.Sunitha Sundar for R5

ORDER

This Writ Petition has been filed for a Mandamus seeking for a direction to the respondents 1 to 4 to take appropriate action as against the 5th respondent, M/s. Chandra CFS and Terminal Operators Pvt.Ltd., for non-complying the Detention Waiver Certificate dated 19.12.2023 issued by the 4th respondent concerning the re-import of goods vide Bill of Entry No.4281619 dated 11.06.2021, based on the petitioner's representation dated 19.01.2024.



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2. The petitioner claims that even though, the respondents have issued the Detention Waiver Certificate dated 19.12.2023 in respect of Bill of Entry No.4281619 dated 11.06.2021, under which, the 5th respondent was directed not to charge any rent or demurrage at the time of clearance as per the guidelines issued in terms of the CBIC Circular dated 26.06.2022, the 5th respondent is continuously demanding the rent or demurrage charges in respect of Bill of Entry No.4281619 dated 11.06.2021, contrary to the Detention Waiver Certificate dated 19.12.2023 issued by the 4th respondent. However, the same has been disputed by the 5th respondent as seen from the counter filed before this Court. A detailed counter has been filed dated 08.09.2024 wherein they have relied upon the provisions of the Customs Act, Customs Regulations, Circulars and judicial decisions as well, to substantiate their claim that they are not liable to honour the communication dated 19.12.2023. They have taken a categorical stand that the communication dated 19.12.2023, which the petitioner claims to be a Waiver Detention Certificate is not issued by a competent authority.

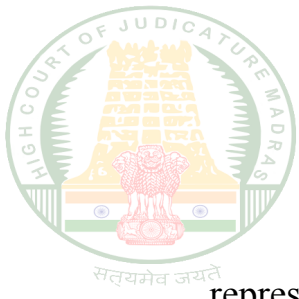
3. Admittedly, the 5th respondent was not granted any opportunity to send a reply to the petitioner's representation dated 19.01.2024. The



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petitioner had requested the respondents 1 to 4 to take action against the 5th respondent for non-compliance of the communication dated 19.12.2023 issued by the 4th respondent. Unless and until the 5th respondent is granted an opportunity to submit an explanation and raise all objections, the question of taking appropriate action against the 5th respondent by the respondents 1 to 4 as prayed for in this writ petition cannot be granted. No positive direction, as prayed for in this writ petition, can be granted at this stage.

4. Since a detailed counter has been filed in this writ petition by the 5th respondent denying the contentions of the petitioner that the impugned communication dated 19.12.2023 is a waiver detention certificate, necessarily only after considering the objections raised by the 5th respondent as raised in this writ petition are considered on merits and in accordance with law after affording an opportunity of hearing to the 5th respondent, respondents 1 to 4 will be in a position to pass final orders on petitioner's representation on merits and in accordance with law. No prejudice would be caused to any of the parties if a direction is issued to the respondents 1 to 4 or any other competent authority to permit the 5th respondent to submit a reply to the petitioner's



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representation dated 19.01.2024, which is the subject matter of this writ petition.

5. Accordingly, a direction is issued to the respondents 1 to 4 or any other competent authority to permit the 5th respondent to submit a reply to the petitioner's representation dated 19.01.2024 within a period of four weeks from the date of receipt of a copy of this order. On receipt of the said reply, the competent authority, after providing sufficient personal hearings to both the parties namely, the petitioner as well as the 5th respondent and after giving due consideration to the reply submitted by the 5th respondent, shall pass final orders on merits and in accordance with law within a period of eight weeks from the date of receipt of the reply from the 5th respondent.

6. With the aforesaid directions, the Writ Petition is disposed of.

No costs.

14.03.2025

vsi

Index : Yes / No

Internet : Yes / No

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ABDUL QUDDHOSE,J.

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