In the High Court of Judicature at Madras

Reserved on **23.9.2025**	Delivered on : **26.9.2025**

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.26414 of 2025

A.R.Fabrics Pvt.Ltd., through its
Director Mr.Ramesh Aggarwal ...Petitioner

Vs

1.The Principal Commissioner of Customs (Chennai-III), (Preventive), Administrative Building, MEPZ Special Economic Zone, GST Road, Tambaram, Chennai-45.

2.The Additional Director General, Directorate of Revenue Intelligence (Headquarters), 7th Floor, Drum Shape Building, D Block, I.P.Bhawan, I.P.Estate, New Delhi-110002. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to release the goods imported vide Bill of Entry No.7735351 dated

11.1.2025, which has been seized vide seizure memo dated 07.4.2025 provisionally for re-export only subject to reasonable conditions, if necessary, for safeguarding the revenue.

For Petitioner	:	Mr.K.R.Premranjan for Ms.S.Akila
For Respondents	:	Mr.G.Meganathan, Standing Counsel

ORDER

This writ petition has been filed seeking for the issuance of a Writ of Mandamus directing the respondents to release the goods, which were imported vide Bill of Entry dated 11.1.2025 and seized vide seizure memo dated 07.4.2025 provisionally, for re-export subject to reasonable conditions.

2. Heard both.

3. The case of the petitioner is as follows :

(i) The petitioner is in the business of importing various kinds of fabrics mainly from China. The petitioner signed a sales contract dated 22.11.2024 with one Chinese supplier for the supply of textile fabrics coated with plastics. Based on the documents sent by the supplier, the petitioner filed the Bill of Entry dated 11.1.2025 and declared the goods as textile fabric coated with plastics. The consignment also reached the Chennai Port and it was examined by the second respondent, who came to the conclusion that there was a mis-declaration and accordingly, the goods were seized under seizure memo dated 07.4.2025.

(ii) The petitioner was issued with summons by the second respondent so as to appear on 24.4.2025 along with relevant documents. The petitioner also appeared before the second respondent and their statement was recorded and all the relevant documents were submitted. Thereafter, the petitioner requested the second respondent for provisional release of the seized goods. But, the petitioner was directed to approach the first respondent for the provisional release of the goods as provided under Section 110A of the Customs Act, 1962 (for short, the Act).

(iii) The petitioner was following up with the respondents and the provisional release for home consumption was not forthcoming. The supplier was also putting pressure on the petitioner for payment. Ultimately, the petitioner decided to re-export the goods so as to avoid unnecessary detention and demurrage charges and penalty, which may be imposed on the petitioner by the supplier. But, the request of the petitioner for re-export was also not considered. Hence, the above writ petition has been filed before this Court.

4. The learned Standing Counsel appearing for the respondents submitted as follows :

The request of the petitioner for provisional release of the goods was considered and the proceedings were issued on 16.7.2025 by the Principal Commissioner of Customs (Preventive), Chennai, Custom House, No.60, Rajaji Salai, Chennai-1 to release the goods provisionally under Section 110A of the Act. The request made by the petitioner for re-export of the goods can be considered only after final report is received from the Directorate of Revenue Intelligence and the petitioner has to necessarily wait for the adjudication proceedings to come to an end. Till such time, the petitioner cannot be permitted to re-export the goods.

5. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on

record.

6. In the case in hand, as could be seen from the proceedings dated 16.7.2025, the provisional release of goods has been permitted by the Principal Commissioner of Customs (Preventive), Chennai, Custom House, No.60, Rajaji Salai, Chennai-1 however, subject to conditions.

7. Section 110 of the Act deals with seizure of goods. Section 110A of the Act deals with provisional release of goods, documents and things seized pending adjudication. Section 111 deals with confiscation of improperly imported goods.

8. The learned counsel for the petitioner submitted that in the case in hand, at best, the goods may fall under Section 111(m) of the Act and that even in such an event, Section 125 gives an option to pay the fine in lieu of confiscation, which will be decided after adjudication.

9. The learned counsel for the petitioner placed reliance upon the judgment of the Hon'ble Apex Court in the case of ***Siemens Ltd.Vs.***

Collector of Customs [reported in 1999 (113) ELT 776].

10. By relying upon the said judgment of the Hon'ble Apex Court, a learned Single Judge of this Court passed an order in the case of ***Sankar Pandi Vs. Union of India [reported in 2002 (141) ELT 635]*** wherein it was held that the petitioner therein was entitled to re-export the articles in question and that it was necessary for him to pay retention fine as imposed by the Authorities. This Court ultimately held that at best, penalty could be imposed. This Court also reduced the penalty and a direction was given to the petitioner therein to pay the reduced penalty.

11. The learned counsel for the petitioner also brought to the notice of this Court a Division Bench judgment of the Madurai Bench of this Court in ***Assistant Commissioner of Customs (Imports), Tuticorin Vs. Mahadev Enterprises [reported in 2023 (3) CENTAX 8]*** wherein this Court permitted the re-export of goods after directing the importer therein to execute a bond to cover the value of the goods pending adjudication.

12. The learned counsel for the petitioner further brought to the notice of this Court the other views taken by different High Courts wherein a bank guarantee can be directed to be executed for some percentage of the customs duty that may be leviable on the re-determined value of the goods.

13. In the case in hand, vide proceedings dated 16.7.2025, the goods were directed to be released provisionally to the petitioner after imposing certain conditions. The adjudication may result in confiscation under Section 111 of the Act and ultimately, the Adjudicating Authority can also give an option to the petitioner to pay the fine in lieu of confiscation.

14. The crux of the issue is as to whether the goods will have to remain in India or the petitioner can be permitted to re-export the goods to the supplier at China since the supplier had also agreed to take back the goods.

15. The logical end to the adjudication proceedings will result in directing the petitioner to pay the fine/penalty and differential duty.

For this purpose, it is not necessary to retain the goods in India. Therefore, to strike a balance, considering the fact that the goods are lying in India from January 2025, certain conditions can be imposed on the petitioner and on fulfilment of the conditions so imposed, the petitioner can be permitted to re-export the goods. This view has been taken by this Court and other High Courts while granting such a relief.

16. In the light of the above discussions, the writ petition is disposed of in the following terms :

> *(i) The petitioner shall execute a bond for the total value of the differential duty payable by them;*
>
> *(ii) The petitioner shall furnish a bank guarantee equivalent to 20% of the re-determined value; and*
>
> *(iii) On the petitioner fulfilling the above two conditions, they shall be permitted to re-export the goods within a period of 12 days from the date of compliance of the above conditions as imposed by this Court.*

No costs.

26.9.2025

Index : Yes (or) No
Neutral Citation : Yes (or) No

To
1.The Principal Commissioner of
Customs (Chennai-III),
(Preventive), Administrative
Building, MEPZ Special
Economic Zone, GST Road,
Tambaram, Chennai-45.

2.The Additional Director General,
Directorate of Revenue Intelligence
(Headquarters), 7th Floor,
Drum Shape Building,
D Block, I.P.Bhawan, I.P.Estate,
New Delhi-110002.

RS

N.ANAND VENKATESH,J

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