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W.P.No.27429 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-12-2025

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.No.27429 of 2025

and

W.M.P.No.30806 of 2025

M/s.Shaker Exports,
Rep. by its Managing Partner Mansoor Ali,
No.1-4-27/71, Padmashali Colony,
Bholakpur, Hyderabad,
Telangana – 500 020.

... Petitioner

Vs.

Commissioner of Customs IV,
Custom House,
No.60, Rajaji Salai,
Chennai – 1.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records in Order-in-Original No.113464/2025 dated 06.06.2025 and quash the same as illegal, incompetent and wholly without jurisdiction and further direct the respondent to release the perishable goods are subject matter of the Shipping Bill No.3169449 dated 12.08.2024.

For Petitioner : Mr.Sunny Sheen Akkara
For Respondent : Mr.Santhanaraman
Senior Standing Counsel



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ORDER

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This writ petition has been filed challenging the order in original dated 06.06.2025 passed by the respondent, rejecting the request of the petitioner seeking re-classification of the goods.

2. Under the impugned order in original, the subject goods have been confiscated and a penalty has also been imposed on the petitioner as disclosed in the impugned order. The petitioner claims that the goods, namely Bull/Ox meat has to be reclassified under CTH 02021000 from CTH 02023000. However, the said request has been rejected under the impugned order in original by the respondent and consequentially, penalty has been imposed on the petitioner as disclosed in the impugned order in original.

3. The petitioner has challenged the impugned order in original on the ground of violation of principles of natural justice and on the ground that the impugned order in original is a non-speaking order with regard to the contentions of the petitioner. It has been brought to the notice of this Court by the learned Senior Standing Counsel appearing for the respondent that a similar issue involving the very same goods, namely Bull/Ox meat was the subject matter of



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consideration by this Court in W.P.No.33037 of 2025 and the very same grounds were raised in the said writ petition as well. He would submit that, by order, dated 01.09.2025, the learned Single Judge of this Court has disposed of the said writ petition, by declining to interfere with the impugned order in original passed in the said writ petition, and by directing the petitioner therein to file an appeal before the competent appellate authority. Therefore, he would submit that this writ petition is not maintainable as there is an alternate efficacious remedy available to the petitioner, by filing an appeal against the impugned order in original before the competent appellate authority.

4. Learned counsel for the petitioner would submit that the petitioner is prepared to file an appeal before the competent appellate authority if permission is granted to the petitioner to file an appeal within a period of two weeks from today. He would also submit that a direction may be issued to the appellate authority to dispose of the appeal within a short time since the goods are lying idle and same are perishable goods, and the petitioner is also paying the demurrage charges for the same, causing heavy loss to them. He also relies upon an order dated 21.07.2025 passed by the Customs Department (Cochin), and would submit that in the said matter, passed through Order No.195/2025/F. No.



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CUS/ASS/MISC/103/2025, an option was given to the importer therein in respect of the very same goods to pay fine in view of the confiscation as per Section 125 of the Customs Act, 1962 (in short 'the Act'). Since the said option has not been given to the petitioner in the impugned order in original, the learned counsel for the petitioner would submit that a direction may be issued to the competent appellate authority to pass orders on the petitioner's appeal once the same is filed, after giving due consideration to the aforesaid order in original, dated 21.07.2025 passed by the Cochin Customs Department.

5. However, learned Senior Standing Counsel appearing for the respondent would submit that the remedy available to any importer u/s 125 of the Act, namely an option to pay fine in lieu of confiscation is only a discretionary remedy and it depends upon the facts and circumstances of each case.

6. This Court is not expressing any opinion on the merits of the respective submissions made by the respective counsels before this Court. However, this Court, in order to protect the interest of the petitioner, and in the interest of justice, which would also not cause any prejudice to the respondent, deems it fit to issue direction to the petitioner to file an appeal against the impugned order in original



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before the competent appellate authority, within a period of two (2) weeks from today (08.12.2025). On receipt of the said appeal within the stipulated time, the competent appellate authority shall pass final orders, on merits and in accordance with law, after giving due consideration to the order, dated 21.07.2025, passed in Order No.195/2025/F. No. CUS/ASS/MISC/103/2025, within a period of eight (8) weeks thereafter. This Court is not expressing any opinion on the merits of the order, dated 21.07.2025 passed by the Cochin Customs Department.

7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

08.12.2025

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

Note : Issue order copy on 09.12.2025.

To

The Commissioner of Customs IV,
Custom House, No.60, Rajaji Salai,
Chennai – 1.



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ABDUL QUDDHOSE. J.

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