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WP No. 31002 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-07-2025

CORAM

THE HON'BLE MR JUSTICE ABDUL QUDDHOSE

WP No. 31002 of 2024

AND

WMP NO. 33609 OF 2024

Modern Line- Export

Rep. By Its Directors Mr.Sandrovujnovic And
Mr.Ivicalukanovic Skalnica 65, 51217 Klana,
Croatia.

Petitioner(s)

Vs

1. The Assistant Commissioner Of Customs,
Import Noting, Ch-iii, Preventive
Commissionerate, Custom House, No.60, Rajaji
Salai, Chennai-600 001.
2. M/s.Apm Terminals India Pvt Ltd.,
Container Freight Station No.78, Anuppampattu
Vilalge T.H.Road, Ponneri Taluk, Thiruvallur-
601 203.
3. M/s.Hapag-lloyd India Pvt. Ltd
1st Floor, Venkatanarayana Towers, 60,
Venkatanarayana Road, T.Nagar, Chennai-600
017.

Respondent(s)

Call for the records relating to the impugned order-in-original
No.108264/ 2024 dated 19.07.2024 issued by the 1st respondent and quash the
same and direct the 1st respondent issue a detention certificate recommending



waiver of detention and demurrage and detention charges by the 2nd and 3rd respondent on the goods covered by Bill of Lading No.HLCURJ2230100994 dated 27.01.2023.

For Petitioner(s): G.Derrick Sam

For Respondent(s): Mr. K.S. Ramaswamy, SPC, for R1;
Mr.Kandeep Shravan
for Mr.P.Giridharan for R2;
Mr Vivek Menon for R3

ORDER

This writ petition has been filed challenging the impugned order passed by the first respondent rejecting the petitioner's request for the issuance of waiver certificate for the waiver of demurrage and detention charges for the goods imported vide BL.No.HLCURJ2230100994, dated 27.01.2023, and IGM No.2336440 dated 24.02.2023 on the ground that since there is no seizure, detention or confiscation order passed by the Customs Authorities, the request for waiver cannot be granted.

2. The petitioner contends that only due to the fact that the petitioner's request for re-export was refused by the Customs Authorities, the petitioner has



been unnecessarily held liable to pay demurrage charges to the respondents 2 and 3.

3. Admittedly, the first respondent has not passed any order in respect of the subject goods for seizure, detention or confiscation. Only in cases where such order passed by the Customs Authorities is held to be illegal, the question of seeking waiver of demurrage and detention charges will arise. The petitioner claims that the importer, who had earlier imported the subject goods, failed to take delivery of the same, since the project did not go through, and under those circumstances, a request was made by the petitioner to re-export the goods, which was initially refused by the Customs Authorities. According to the petitioner, in the earlier writ petition filed by them in W.P.Nos.727 and 733 of 2024, this Court, by order dated 07.06.2024, directed the Customs Department to consider the petitioner's request for re-export and in the said order, a finding was also rendered that the circular which was relied upon by the Customs Authorities for rejecting the petitioner's request for re-export, is not applicable to the petitioner's case. The petitioner contends that only due to the fault of the Customs Authorities, the petitioner had to incur demurrage charges, which is payable to the respondents 2 and 3. The first respondent has not admitted their liability to reimburse demurrage charges alleged to have been incurred by the



petitioner as seen from the counter affidavit filed before this Court as well as from the submission of the learned standing counsel for the first respondent.

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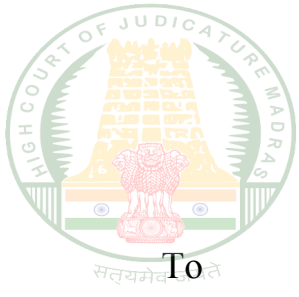
4. Admittedly, the Customs Authorities have not passed any orders for seizure, detention or confiscation in respect of the subject goods. When no such order has been passed, the question of issuance of waiver certificate for waiver of demurrage and detention charges as prayed for in this writ petition does not arise. The importer, who is said to have refused to take delivery of the goods from the petitioner, which ultimately forced the petitioner to re-export the goods, is also not a party to this writ petition.

5. Therefore, after giving due consideration to the aforesaid facts, this Court is of the considered view that there is no merit in this writ petition. Accordingly, this writ petition is dismissed. No Costs. Consequently, connected writ miscellaneous petition is also closed.

11-07-2025

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

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- To
1. The Assistant Commissioner Of Customs,
Import Noting, Ch-iii, Preventive
Commissionerate, Custom House, No.60, Rajaji
Salai, Chennai-600 001.



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ABDUL QUDDHOSE J.

RKM

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