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W.P.No.28538 of 2025

In the High Court of Judicature at Madras

Reserved on
31.10.2025Delivered on :
06.11.2025

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.28538 of 2025
& WMP.Nos.31941 & 31942 of 2025

Dhanalaxmi Food Pvt. Ltd.,
Having office at Kuleshwar,
Byapar Singh, Kathmandu,
Nepal Rep.by power agent
Mr.D.S.Hari

...Petitioner

Vs

- 1.Union of India, through
the Ministry of Finance,
Department of Revenue,
North Block, New Delhi.
110001.
- 2.The Commissioner of Customs,
No.60, Rajaji Salai, Chennai-1.
- 3.The Directorate of Revenue
Intelligence, Chennai Zonal Unit,
27, G.N.Chetty Road, T.Nagar,
Chennai-17.
- 4.The Intelligence Officer,
Directorate of Revenue
Intelligence, Chennai Zonal



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Unit, 27, G.N.Chetty Road,
T.Nagar, Chennai-17.

5.The Assistant Director,
Ministry of Finance,
Department of Revenue,
Directorate of Revenue
Intelligence, 27, G.N.Chetty
Road, T.Nagar, Chennai-17.

6.M/s.Unifeeder Agencies India
Pvt. Ltd., 4th Floor, Chalam
Tower, New No.113, Old No.62,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-4.

7.M/s.Chennai Container Terminal
Pvt. Ltd., Chennai, Ground
Chennai Port Trust Administrative
Building, 1, Rajaji Salai,
Chennai-1.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to quash the impugned summons dated 23.6.2025 issued by respondent No.3 and a Writ of Certiorarified Mandamus to quash the impugned seizure Memorandum dated 24.6.2025 issued by the respondent No.3 and consequently direct the respondent No.3 to release the petitioner's goods.



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For Petitioner : Mr.Parthamesh Kamat for
Mr.Rahul M.Shankar
For R1 & R2 : Mr.G.Meganathan, JSC
For R3 to R5 : Mr.Sai Srujan Tayi, SSC

ORDER

This writ petition assails the summons dated 23.6.2025 and the seizure memorandum dated 24.6.2025 issued by the third respondent and the petitioner has further sought for a consequential direction to the third respondent to release the goods.

2. Heard both.

3. The case of the petitioner is as follows :

(i) The petitioner is engaged in the business of import of various items of trade and is registered under the laws of Nepal. The petitioner entered into a commercial arrangement with one M/s.Arab and India Spices LLC, based out of Ajman, United Arab Emirates (UAE) for import of unshelled watermelon seeds of Nigerian origin for ultimate import to Nepal. This import was meant for consumption of unshelled



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watermelon seeds in Nepal.

(ii) In and by two commercial invoices dated 14.5.2025 and 30.5.2025, the petitioner purchased gross aggregate quantity of 1,62,810 Kgs of raw watermelon seeds from the said M/s.Arab and India Spices LLC, which being the exporter. The port of shipment was Ajman and the goods have to ultimately reach the destination namely Nepal. After completing all the necessary formalities, the petitioner arranged for the shipment of goods from UAE, carried by sea route to Kolkata Port, which is the port of discharge for the shipment and declared to be goods constituting traffic in transit, which would ultimately reach the destination namely Nepal.

(iii) The goods landed at Chennai Port on 07.6.2025 for onward transportation to Nepal via Kolkata Port. The Bill of Entry for the goods was duly filled by the Customs House Agent (CHA) of the petitioner namely the 7th respondent and it was specifically mentioned that the goods are in transit and are meant for import in Nepal.

(iv) The grievance of the petitioner is that the goods were detained at Chennai and the impugned summons dated 23.6.2025 came to be issued by the third respondent under Section 118 of the Customs Act, 1962 (for short the Act) calling upon the CHA of the



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petitioner to appear in person or through their authorized agent on 24.6.2025. This summons was not issued to the petitioner on time and it came to be knowledge of the petitioner only in the beginning of July 2025 i.e. much after the date of inquiry.

(v) The seventh respondent forwarded to the petitioner a copy of the impugned seizure memorandum dated 24.6.2025 issued by the fourth respondent and on going through the same, the petitioner understood that the fourth respondent had purported to seize the goods on the pretext that the goods in question originated from Pakistan. It is under these circumstances, the above writ petition has been filed before this Court challenging the impugned summons dated 23.6.2025 and the impugned seizure memorandum dated 24.6.2025 issued by the third respondent.

4. The Senior Intelligence Officer, who is the authorized signatory of the Directorate of Revenue Intelligence (DRI), Chennai Zonal Unit, filed a counter on behalf of respondents 3 to 5 wherein they took the following stand :

(i) The DRI, Chennai Zonal Unit received a specific intelligence to the effect that six containers containing watermelon seeds of Pakistani



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origin were being transshipped through India at the Chennai Port for the purpose of transshipment to Nepal through the Kolkata Port. Hence, after those containers arrived at the Chennai Port, they were detained and a detailed examination was carried out by the officers of the DRI. On examination, 4,050 bags of raw unshelled watermelon seeds totally weighing 1,61,490 Kgs were found. Further, it was found that the labels that were stitched on the bags indicated that the goods were of Pakistan origin.

(ii) In pursuance of the Foreign Trade Policy, 2023, as amended by Notification No.06/2025-26 dated 02.5.2025 of the Director General of Foreign Trade read with the relevant provisions of the Customs Act, 1962, direct or indirect import or transit of all goods originating in or exported from Pakistan has been prohibited with effect from 02.5.2025. Since the labels stitched on the bags indicated that the goods were of Pakistan origin, prima facie, the Authorities came to the conclusion that it is in contravention of the said Notification and hence, proceeded to initiate confiscation proceedings under Section 111(d) of the Act and the goods were seized under Section 110 of the Act vide the impugned seizure memorandum dated 24.6.2025.



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(iii) The agent for those containers appeared before the Intelligence Officer and he was examined. He tendered his voluntary statement on 24.6.2025 and submitted all the relevant documents. On perusal of the documents, it was seen that there were several discrepancies, that a declaration was made by the petitioner before the UAE Customs Authorities mentioning the country of origin of the goods as SD (Sudan) and that but, the country of origin was mentioned as Nigeria in the invoices, packing list, phytosanitary certificate for re-export issued by the Ministry of Climate Change and Environment of the UAE and the certificate of origin issued by the Dubai Chamber of Commerce. Hence, it was decided to conduct an inquiry and the goods were seized since there had been a contravention of the Foreign Trade Policy and also the provisions of the Act.

(iv) Ultimately, respondents 1 to 3 sought for dismissal of this writ petition.

5. When the writ petition came up for hearing on 01.8.2025, this Court passed the following order :

*"This writ petition has been filed challenging
the impugned seizure memorandum dated*



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24.06.2025 on the following grounds:-

(a) *The petitioner is not an importer in India and therefore, the provisions of the Customs Act does not get attracted.*

(b) *The goods are not of Pakistan origin as suspected by the respondent under the impugned seizure memo.*

(c) *The goods were only on transit through India for the purpose of delivery at Nepal, where the petitioner is having its office and is also a consignee under the Bill of Entry.*

(d) *Under the Treaty of Transit entered into with Nepal, the Government of India has agreed for transiting the goods to Nepal through India.*

2. *The learned counsel for the petitioner drew the attention of this Court to the entry permit issued by the Government of Nepal for the subject goods and would submit that the subject goods will have to reach Nepal on or before 18.08.2025. Therefore, he pleads urgency for early disposal of this writ petition.*

3. *Mr.Rajendra Raghavan, learned senior standing counsel, accepts notice on behalf of the second respondent. Ms.S.Aswini, learned counsel, accepts notice on behalf of the respondents 3 to 5. They seek time to file counter affidavit.*

Post the matter for counter and disposal on 08.08.2025."



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6. The said order dated 01.8.2025 succinctly captures the issues that are involved in the above writ petition.

7. After carefully considering the submissions of the learned counsel on either side and perusing the materials available on record, this Court thought it fit to re-frame the issues as follows :

(a) Whether the goods in question can be considered to have been imported into India ?

(b) Even assuming that the goods cannot be considered to be imported into India and that the goods were not offloaded in Chennai except for the Bill of Entry being filed in the Chennai Commissionerate, whether the third respondent will have the jurisdiction to initiate proceedings and seize the goods ? and

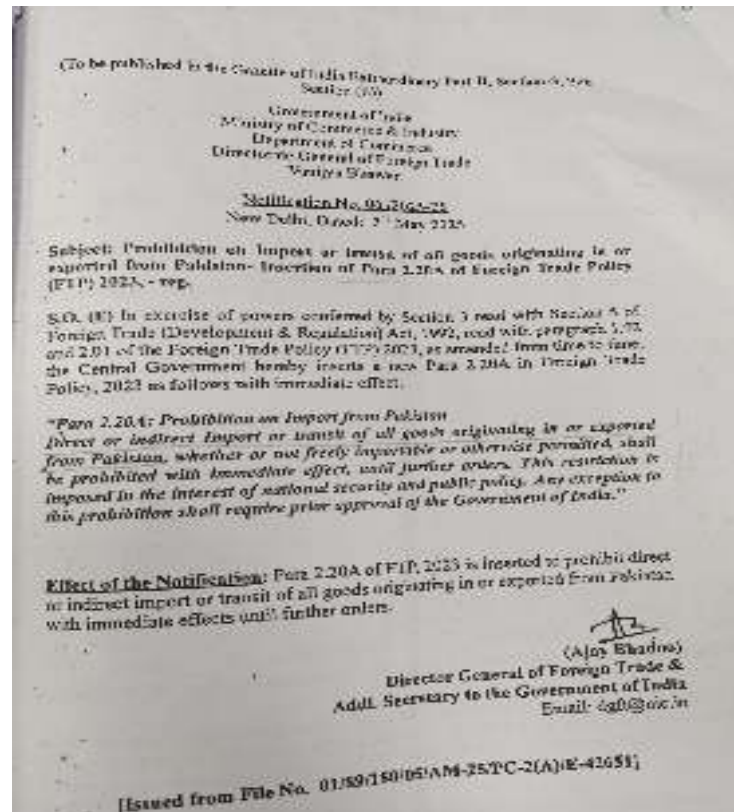
(c) Whether the third respondent is right in coming to the conclusion that the country of origin of goods is Pakistan by disregarding various documents, which substantiated the fact that the country of origin is Nigeria and the country of destination is Nepal ?



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8. Before dealing with the above issues, this Court must first take into account the relevant Notification namely DGFT Notification No.6/25-26 dated 02.5.2025, which was issued by the Government of India after the Pahalgam attack by prohibiting direct or indirect import or transit of goods originating in or exported from Pakistan with effect from 02.5.2025. For proper appreciation, the said Notification is scanned and extracted hereunder:





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9. On a careful reading of the said Notification, it is clear that what was prohibited was the import or transit of all goods originating in or exported from Pakistan.

10. Section 2(23) of the Act defines the word "**import**" as hereunder:

"2. Definitions.—In this Act, unless the context otherwise requires,—

.....

(23) 'import' with its grammatical variations and cognate expressions, means bringing into India from a place outside India;"

11. To understand the purport of this definition and the said Notification dated 02.5.2025, Section 46 of the Act will have significance since it deals with the entry of goods on importation.

12. At this juncture, it will be relevant to take note of some of the judgments, which have dealt with the scope and ambit of the term '**import of goods**'.



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13. The first one is the decision of a learned Single Judge of this Court in ***K.R.Ahmed Shah Vs. Additional Collector of Customs, Madras [reported in 1980 SCC OnLine Madras 401]***. This Court, after analyzing all the earlier judgments, summarized the principles at paragraph 14 of the decision, which reads as hereunder :

"The principles that could be deduced from the above decisions can be summarized as follows

—

(1) Goods can be said to be imported to the country only when they are incorporated in and mixed up with the mass of goods in the country.

(2) It cannot be said that the moment an aircraft lands at an international airport in this country, the goods are imported and to hold otherwise Would create inconvenience and confusion and would render the goods which are in the aircraft meant to be carried to other countries subject to the Customs laws of this country.

(3) Once a passenger enters the Customs area and makes a declaration of what all he had brought and does not make any attempt to take the goods across the Customs barrier in violation of the customs laws of this country, it cannot be said that he had imported or attempted to import any goods contrary to any prohibition imposed by and under the Act or any other law for the time



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being in force."

14. It will also be relevant to take note of the judgment of this Court in ***Lucas TVS, Madras Vs. Assistant Collector of Customs, Madras [reported in 1985 SCC OnLine Madras 358]*** wherein the First Bench had exhaustively dealt with the scope of import of goods and in the said process, it affirmed the said judgment in ***K.R.Ahmed Shah***. The relevant portions read thus :

"23. The controversy as to when goods can be said to have been imported has been the subject of a series of decisions of different courts, and we would rather refer to these decisions than raverse once again, the same ground which is covered by the decisions while construing the concept of import. The question as to when goods can be said to have been imported came up for consideration for the first time in this Court in K.R. Ahmed Shah v. Additional Collector of Customs, Madras [1981 ELT 153 (Mad.)]. The learned Judge (Padmanabhan, J.) after referring to the decision of the Supreme Court in Express Mills v. Municipal Committee (AIR 1958 SC 341) and an unreported Division Bench decision of this Court in Writ Appeal No. 84 of 1968, culled out the following principles with regard to the meaning the word "import" in Sections 2(23) of the Act. In paragraph 11, the



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learned Judge observed as follows:—

'The principles that could be deduced from the above decisions can be summarised as follows:

—

(1) Goods can be said to be imported to the country only when they are incorporated in and mixed up with the mass of goods in the country.

(2) It cannot be said that the moment an aircraft lands at an international airport in this country, the goods are imported and to hold otherwise would create inconvenience and confusion and would render the goods which are in the aircraft meant to be carried to other countries subject to the Customs laws of this country.

(3) Once a passenger enters the customs area and makes a declaration of what all he had brought and does not make any attempt to take the goods across the customs barrier in violation of the customs laws of this country, "it cannot be said that he had imported or attempted to import any goods contrary to any prohibition imposed by and under the Act or any other law for the time being in force.'

24. *We are referring to the decision which deals with the concept of import because just as in the case of export of goods outside India and contention is that goods must go beyond the territorial waters, it has been the contention of the Department sometimes, as and when it suits the*



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Department that so far as import is concerned, the import is complete the moment the goods have been brought within the limits of the territorial waters. This question assumes some importance when at the time of entry into territorial waters, the goods are either exempted from customs duty or the customs duty is less and at the point when they cross the customs barrier, either the exemption is taken away or the import duty has been enhanced. In such cases, courts have been called upon to decide as to when import takes place. In the decision referred above this court took the view that goods can be said to have been imported into the country only when they are incorporated in the mixed up with the mass of goods in the country.

25. *The Gujarat High Court was called upon to construe the meaning to be given to "India" in the context of section 12 of the Act. As already pointed out, section 12 of the Act is a charging section, and it provides for a levy on goods imported into or exported from India. In Prabhat Cotton and Silk Mills Ltd. v. Union of India [1982 ELT 203 (Guj.)], the Division Bench of the Gujarat High Court positively took the view that when section 12 refers to "exportation from or importation into" of goods, the reference is to the landmass of India and not to the territorial waters of India. The Division Bench pointed out that if the*



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construction that India is to be equated with the area upto the territorial waters of India, then even a ship which will stray into the territorial waters or when the ship enters the territorial waters and changes its course, turns back and leaves the territorial waters before landing the goods on the landmass of India, would also have to be considered as importing goods into India. There it was the importer who took the stand that the import takes place when the ship entered the territorial waters. The question arose in the context of the valuation of the goods for the purpose of assessment to import duty. The department wanted certain landing charges to be included as a part of the assessable value of the articles. The argument of the assessee was that since the goods were imported as soon as they crossed the territorial waters the taxable event occurs at the point of time when the goods enter the Indian territorial water and the price of the goods has to be determined in the context of the said circumstance. Thus, according to the importer, the goods would have to be valued at the point of time when the vessel entered the Indian Customs water, and so the valuations to be made on the basis of the price at which the same would be sold and offered for sale on the vessel before the goods are unloaded on the port, and since the valuation will have to be made on the basis of the valuation as



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on board of the ship at the point of time when the ship enters the Indian customs waters much before the goods are unloaded on the dock of the port, the charges payable to the Port authorities upon the unloading of the goods on the dock known as the landing charges cannot be included in the assessable value. Repelling that contention, the Division Bench after quoting section 12 of the Act observed as follows:—

"What requires to be underlined is a reference to 'goods imported into, or exported from, India'. 'Sutely, the expression 'goods exported from India' cannot mean goods exported from the territorial waters of India. It cannot mean goods exported from the territorial waters of India. It cannot mean goods exported from the hypothetical line drawn on the boundry of the Indian territorial waters. It is susceptible to only one interpretation, viz., the goods exported from the 'landmass' of India. Once this view if taken in the context of exportation from India, the expression 'imported into' which forms a part of the expression 'imported into or exported from India cannot carry any other meaning: the expression India must mean landmass of India whether it is in the context of 'exportation from India' or 'importation into India' of goods within the meaning of dutiable goods in the context of section 12(1) of the Act. To construe the expression 'goods



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exported from India' to mean goods exported from the landmass of India on the one hand, and to interpret the expression following on its heels, the goods imported into India to mean goods imported into territorial waters of India and not the landmass of India would introduce an anachronism and so incongruity. Section 12 must, therefore, be read in a consistent manner so that the same meaning can be assigned to the expression 'India' when it is used in the context of importation of goods into India. We have, therefore, no' hesitation in holding that section 12 refers to exportation from, or importation into, of goods with reference to the landmass of India and not with reference to the territorial waters of India. Once we reach this conclusion, the main plank of the submission urged on behalf of the petitioners must collapse."

26. *We are in respectful agreement with the view taken by the Gujarat High Court that when section 12 of the Act refers to goods exported from India, it does not mean goods exported from the territorial water of India. The export of the goods clearly takes place on the landmass of the country. If the construction canvassed on behalf of the respondents is to be accepted, then there is nothing in the Customs Act to indicate what is the position of the goods from the time of loading the goods on the ship till they cross the boundary line of the territorial waters. Within the region between*



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the boundary of the landmass of India on one side and the outer limit of the territorial waters the goods are beyond the control of the exporter. The customs duty is payable on export, and if export takes place only at the place where the territorial waters of India cease, then strictly speaking the customs duty will have to be collected only at that place which is almost an impossibility.

27. We may also refer the decision of the Kerala High Court in *Shri Ramalinga Mills (P) Ltd. v. Assistant Collector' of Customs* [1983 ELT 65 (Ker.)]. The learned Judge after elaborate discussion of the provisions of the Act and the decision of the Supreme Court in *In re: Sea Customs Act (1878)* (AIR 1963 SC. 1760) observed as follows:—

"In this view of the matter, I am clearly of opinion that the mere entry of the vessel with the goods into the territorial waters or even berthing in the port of Bombay will not, vis-a-vis the petitioners importers at Cochin, constitute a completed import of the goods at Bombay. That was a matter of mere transit. Importation took place only when the vessel crossed the customs barriers at the intended port of importation, namely, Cochin."

28. We may with advantage quote a passage from an Australian decision on which the learned Judge of the Kerala High Court has relied.



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In the Australian decision The Queen v. Bull [1974 (48) A.L.J.R. 232], the concept of import was elaborately explained as follows:—

"However, whether or not the sea within three nautical miles of the coast should be regarded as part of Australia for other purposes, it is in my opinion, clear that goods are not imported simply by bringing them within the three miles limit. It does not conform to ordinary usage to say that goods are imported into a place if they are brought there in the course of transit but with no intention that they should be unloaded there. For example, in ordinary understanding goods would not be thought to have been imported into Australia if they were carried through the waters within three miles of the Australian coast by a ship which did not put into port. Even if goods are brought into port, they are not necessarily imported, for example, a cargo being carried from England to New Zealand is not imported into Australia when the ship on which it is carried puts into an Australian port on route".

29. *In the same decision, Barwick, C.J., had observed as follows:—*

"however, in any case, it is to my mind a completely impractical concept that importation of goods takes place so soon as and whenever the ship carrying them enters the marginal seas, perhaps only to leave them againsti for



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navigational purposes as it moves towards the port of discharge."

30. A Division Bench of the Delhi High Court also took a similar view of the concept of 'import' in *Jain Shuda Vanaspathi Ltd. v. Union of India* [1983 ELT 1688 (Del.)]. In that case, it was the argument of the importer that the ship having entered the territorial waters on 7.10.1980, the chargeability of the duty must be determined as on that date, and since an exemption notification was in operation on that date, the rate of duty should be considered as nil. This argument was rejected. In paragraph 23 of the judgment, the Division Bench observed as follows:—

"Import" therefore must necessarily mean at a point of time when the goods are to be off-loaded from the ship so that thereafter they form a part of the mass of goods in the country of consumption".

31. In paragraph 37, while observing that the goods coming within the territorial waters were undoubtedly subject to the control of the customs, the Division Bench pointed out that the entry in the territorial waters though amounting to import, will not for fiscal purposes determine the date and the time for the purpose of calculating the rate of duty which is leviable under section 15 of the Customs Act. The judgment also made it clear that it was settled law that unless the goods are brought into the country for the purpose of use, enjoyment,



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consumption, sale or distribution or incorporated into or got mixed up with the totality of the properties of the country, they cannot be said to have been imported, and as such it cannot be said that the moment the aircraft passed through the country or a ship entered the territorial waters, the importation takes place. Importation can only be when the goods crossed the customs barriers.

32. *In another decision in Aluminium Industries Ltd. v. Union of India [1984 (16) ELT 183 (Ker)], the Kerala High Court also took a similar view.*

33. *The concept of import and export once again came up for consideration before a Division Bench of this Court in M. Jamal Company v. Union of India [1985 (21) ELT 369 (Mad.)]. After referring to the decisions cited above and noticing the controversy in the different courts, the Division Bench pointed out that the object of the Act was not to tax the goods which are passing, through the territorial waters, but only those which got mixed up with the mass of goods in India. The Division Bench then observed in paragraph 19 as follows:—*

"It is thus abundantly clear that the definition of the word "India" as including the territorial waters under Section 2(27) of the Act, is compatible with S. 12(1) of the Act. The context of S. 12(1) clearly requires that the word 'In India' in



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this section is not given the meaning it has as per S. 2(27) of the Act. It should instead be given the meaning as per the General Clauses Act, viz., the territory of India".

15. The First Bench also took note of a contrary view expressed by the Full Bench of the Bombay High Court and it was held as follows:

"37. Therefore, even though the Full Bench of the Bombay High Court took a view which runs counter to the decisions which we have earlier cited with reference to the concept of import, even the learned Judges who constituted the Full Bench have clearly taken the view that that analogy will not apply to the case of export and that the Act clearly makes a distinction between import of goods and export of goods. We are, therefore,' inclined to take the view in this case that the goods having been loaded in the ship after they were duly cleared under Section 51, the goods must be described as goods exported for othe purpose of Section 75 of the Act. For the purpose of Section 75 of the Act, when Section 75 refers "to any place outside. India", it would be enough for the exporter to show that the goods were out of his control and were on their way to the country of destination. In the view which we have taken, the appellant is clearly entitled to the



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drawback allowance and the learned single Judge was in error in rejecting the writ petition. Consequently, the order dismissing the writ petition by the learned single Judge and the orders of the authorities rejecting the request of the appellant for drawback allowance are set aside. The authorities are now directed to determine the claim of the appellant on merits. The writ appeal is accordingly allowed and the appellant will be entitled to its costs of this appeal. Counsel's fee Rs.500/-."

16. The word '**import**' as defined under Section 2(23) of the Act, if considered along with the term '**import into India**', will have a wider meaning under Section 111(d) of the Act since it talks about the goods imported or attempted to be imported or brought within the Indian Customs waters for the purpose of being imported. Thus, the goods can be said to be imported to the country only when they are incorporated in and mixed up with the mass of goods in the country. The relevant date for the import of goods will be the date of presentation of the Bill of Entry and not the date when the ship arrives in the territorial waters of India.



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17. For testing as to whether an import has actually taken place, it must be seen as to whether the goods have been taken across the Customs barrier and if that happens, the Customs Laws of this country will kick in.

18. In the case in hand, there are certain documents, which are of sterling quality and which are unimpeachable considering the fact that those are statutory documents, which have not been found to be forged or fabricated documents by the respondents.

19. The first document that has to be considered is the Customs Declaration that was issued by the UAE Customs. On going through the same, it is seen that the goods that were handled are watermelon seeds; that the port of loading is Jebel Ali, UAE; and that the port of discharge is Kolkata.

20. The next set of documents to be taken into consideration are the invoices between the said M/s.Arab and Indian Spices LLC and the petitioner. It is clear from those invoices that the country of origin was Nigeria; that the port of loading is Jebel Ali; that the port of final



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destination is Kolkata; and that the country of destination is Nepal.

21. The third document to be taken into consideration is the packing list issued by the said M/s.Arab and Indian Spices LLC. This document also reiterates the fact that the country of origin is Nigeria and the country of destination is Nepal.

22. Yet another unimpeachable document is the Entry Permit of Plants or Plant Products issued by the Government of Nepal. This document also makes it clear that the country of origin is Nigeria. This is again reiterated by the certificate of origin issued by the Dubai Chamber of Commerce.



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23. The phytosanitary certificate for re-export issued by the UAE Ministry of Climate Change and Environment also confirms the fact that the country of origin is Nigeria and the country of destination is Nepal. The Bills of Lading also make it clear that the port of loading is Jebel Ali, UAE, that the port of transshipment is Chennai and that the port of discharge or final destination is Kolkata.

24. What becomes apparent from all the above documents is that the goods that were transported are raw watermelon seeds. The country of origin is Nigeria. The port of loading is Jebel Ali, UAE. The port of discharge is Kolkata. The country of destination is Nepal. The port of Chennai comes into picture in this entire transaction since the port of transshipment is via Chennai to Kolkata.

25. In the light of the above overwhelming unimpeachable documents that are available, this Court is of the considered view that the third respondent has completely disregarded all those documents and erroneously rendered a finding that on some of the bags, there were labels stitched to the effect that the goods were of Pakistan origin.



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26. During the course of arguments, it was also brought to the notice of this Court that out of 4,050 bags, such labels were available in 300 bags and therefore, it was contended on the side of the respondents that the third respondent initiated investigation on the ground that the goods in question, which reached Chennai in the process of transshipment, are having their origin in Pakistan.

27. The above discussions considered along with the documents that were relied upon clearly establish the fact that there is no import of goods into India. This vital fact has a lot of bearing since the prohibition under the Foreign Trade Policy is deemed to be the prohibition under Section 11 of the Act and as per Sections 53 and 54 of the Act, the transit/transshipment of goods will be allowed subject to the provisions of Section 11.

28. Section 11 of the Act deals with power to prohibit importation or exportation of goods. Sections 53 and 54, which deal with transit and transshipment also specifically use the word '**import**'.



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29. On the facts of the present case, there is absolutely no import into India. The actual import is to the final place of destination namely Nepal. The goods landed at Chennai Port on 07.6.2025 only for the onward transportation to Nepal. Even when the Bills of Entry for the goods involved were filed by the seventh respondent, it specifically referred that the goods are in transit and are meant for import into Nepal.

30. At this juncture, this Court must also consider the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 (for short, the 2020 Rules). Rule 6 specifically deals with verification request. If there is any doubt regarding the genuineness or authenticity of the certificate of origin or for any other reason, if a doubt is entertained on the said issue, this Rule deals with the procedure.

31. The scope of the 2020 Rules was dealt with by a learned Single Judge of this Court in ***M/s.Aabis International Vs. Commissioner of Customs, Chennai Customs II Commissionerate, Customs House, Chennai-1 [W.P.No.10913 of***



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2021 dated 17.6.2021]. The relevant portions are extracted as hereunder :

"18. CAROTAR has been notified specifically to set out the procedure and facilitate exchange of information in case of issues arising from the application of the Articles of a Trade Agreement including conflicts in rate of duty, one by an importer and the other by the revenue. Regulation (6) provides for a request for verification to be made by the proper officer and is extracted below:

'6. Verification request. –

(1) The proper officer may, during the course of customs clearance or thereafter, request for verification of certificate of origin from Verification Authority where:

(a) there is a doubt regarding genuineness or authenticity of the certificate of origin for reasons such as mismatch of signatures or seal when compared with specimens of seals and signatures received from the exporting country in terms of the trade agreement;

(b) there is reason to believe that the country of origin criterion stated in the certificate of origin has not been met or the claim of preferential rate of duty made by importer is invalid; or

(c) verification is being undertaken on



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random basis, as a measure of due diligence to verify whether the goods meet the origin criteria as claimed:

Provided that a verification request in terms of clause (b) may be made only where the importer fails to provide the requisite information sought under rule 5 by the prescribed due date or the information provided by importer is found to be insufficient. Such a request shall seek specific information from the Verification Authority as may be necessary to determine the origin of goods.

(2) Where information received in terms of sub-rule (1) is incomplete or non specific, request for additional information or verification visit may be made to the Verification Authority, in such manner as provided in the Rules of Origin of the specific trade agreement, under which the importer has sought preferential tariff treatment.

(3) When a verification request is made in terms of this rule, the following time line for furnishing the response shall be brought to the notice of the Verification Authority while sending the request:

(a) time line as prescribed in the respective trade agreement; or

(b) in absence of such time line in the agreement, sixty days from the request having been communicated.

(4) Where verification in terms of clause (a)



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or (b) of sub-rule (1) is initiated during the course of customs clearance of imported goods,

(a) the preferential tariff treatment of such goods may be suspended till conclusion of the verification;

(b) the Verification Authority shall be informed of reasons for suspension of preferential tariff treatment while making request of verification; and

(c) the proper officer may, on the request of the importer, provisionally assess and clear the goods, subject to importer furnishing a security amount equal to the difference between the duty provisionally assessed under section 18 of the Act and the preferential duty claimed.

(5) All requests for verification under this rule shall be made through a nodal office as designated by the Board.

(6) Where the information requested in this rule is received within the prescribed time line, the proper officer shall conclude the verification within forty five days of receipt of the information, or within such extended period as the Principal Commissioner of Customs or the Commissioner of Customs may allow:



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Provided that where a timeline to finalize verification is prescribed in the respective Rules of Origin, the proper officer shall finalize the verification within such timeline.

(7) The proper officer may deny claim of preferential rate of duty without further verification where:

(a) the Verification Authority fails to respond to verification request within prescribed time lines;

(b) the Verification Authority does not provide the requested information in the manner as provided in this rule read with the Rules of Origin; or

(c) the information and documents furnished by the Verification Authority and available on record provide sufficient evidence to prove that goods do not meet the origin criteria prescribed in the respective Rules of Origin.'

19. The timeline for response by the Verification Authority is set out in regulation 63b, which is sixty days from date of request. In the present case, this request has not been initiated and the Department has been sitting pretty on the consignment despite requests for release, the petitioner repeatedly drawing attention to the fact that the consignment comprises perishable goods.



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20. That apart and very relevantly, 'Verification Authority' is defined under Regulation 2(g) to mean the authority in the export country designated to respond to a verification request under a trade agreement. The certificate of origin in this case as well as the clarification obtained by the petitioner have been obtained from the Assistant Director acting for the Director General of Commerce in the Department of Commerce, Colombo. The designated Authority under the IFSTA is the Director General of Commerce, Department of Commerce, also the authority which has issued the COO and subsequent clarification. The objection of the respondents in regard to the COO as well as their contention that the clarification dated 19.03.2021 ought to have been received 'through proper channel' is thus, in my view, hyper technical, to say the least.

21. In the light of the discussion as above, I am of the view that the petitioner has satisfied the requirement of production of a valid COO in this case. I would hasten to add that the Department is not foreclosed from making further enquiry in regard to any apprehensions that they may still continue to harbour concerning the COO.

22. As far as the present litigation is concerned, the petitioner has made a strong enough case to persuade me to quash the impugned order and issue mandamus for release



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of the goods forthwith, in any event within one week from the date of issuance of this order. I also draw support from the fact that the petitioner has been relying on the very same documentation as in the case of the consignment in question, including the COO, in other ports not just in India, but in Tamil Nadu itself that is, the Thoothukudi port, and consignments are being released without demur. The response of the revenue to this submission is that such actions will not 'bind' the Chennai authorities. This position is not appreciated as authorities under a Central enactment are expected to adopt consistent views in regard to similar/identical transactions, especially when they relate similar/identical fact and legal patterns. Diametrically opposite conclusions are not expected to be drawn on identical questions of fact and law by statutory authorities."

32. In the case in hand, all the relevant documents have been made available to the third respondent and the concerned Authority has not even initiated the process of verifying the documents pertaining to the country of origin and the Department is sitting tight on the consignment that was seized under the impugned seizure memorandum.



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33. It is also relevant to take note of the provisions of the Foreign Trade (Development & Regulation) Act, 1992. Section 2(3) has a very similar definition for the word '**import**' and Sections 3(2) and (3) gives powers to the Central Government to prohibit or restrict import or export of goods or services or technology and while exercising the power, the goods, to which, any order under Sub-Section (2) applies, will be deemed to be the goods, the import or export of which has been prohibited under Section 11 of the Act.

34. All the above provisions/rules clinchingly establish that the element of "**import of goods**" is a *sine qua non* for applying the Notification and in the case in hand, this Court has already held that there was no import of goods into India.

35. The other limb of the Notification pertains to transit of goods, which originates from Pakistan. In the case in hand, the Chennai Port is the port of transshipment in the process of the cargo, which is in transit to Nepal. Even for invoking Section 54 read with Section 11 of the Act, such transshipment must be in the course of an import and



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that is not the case here.

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36. Even if a wider meaning is given for the word '**transshipment**', which will be prohibited if the country of origin is Pakistan, it is seen that the documents of sterling quality, which are unimpeachable and which have been referred supra would show that the country of origin is Nigeria. Therefore, without testing the genuineness of those documents under the 2020 Rules, the third respondent, by looking at some of the labels that were stitched to some of the bags stating that the country of origin is Pakistan, has proceeded to seize the entire goods under the impugned seizure memorandum dated 24.6.2025.

37. The conspectus of the above discussions leads to the only conclusion that the goods in question are not imported into India, that there are overwhelming materials to show that the country of origin is Nigeria and that the goods in question never crossed the Customs barrier of India since they are not offloaded, but are only in transit to the ultimate destination namely Nepal.



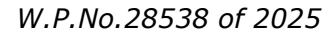
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38. In so far as Nepal is concerned, there is a treaty of transit between the Government of India and the Government of Nepal to enable the contracting parties to accord '**traffic in transit**' freedom of transit across the respective territories. The only restriction is provided under Article II, which would state that such freedom will not, in any way, infringe the legitimate interest of the respective countries and that it will not prevent either of the contracting parties from taking any measures, which are necessary for the protection of its essential security interest. This Article certainly does not apply to the facts of the present case and considering the fact that India and Nepal are signatories to the treaty, there must be smooth transit of the goods to Nepal and more particularly considering the fact that the country of origin of goods is Nigeria.

39. The answer to the first issue is that the goods in question cannot be considered to have been imported into India.

40. In so far as the third issue is concerned, the third respondent is not correct in reaching the conclusion that the country of origin is Pakistan by completely disregarding the overwhelming and



41. In the light of the above finding given to issue Nos.1 and 3, Court holds that the third respondent certainly lacked jurisdiction to initiate proceedings and issue the impugned seizure memorandum dated 24.6.2025. Issue No.2 is also answered accordingly.

42. In the result, the writ petition is allowed and both the impugned summons dated 23.6.2025 as well as the impugned seizure memorandum dated 24.6.2025 issued by the third respondent are quashed. There shall be a direction to the third respondent to release the goods forthwith for onward transshipment to Kolkata Port for import to Nepal. No costs. Consequently, the connected WMPs are closed.

06.11.2025

Index : Yes
Neutral Citation : Yes



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To

1. Union of India, through
the Ministry of Finance,
Department of Revenue,
North Block, New Delhi.
110001.
2. The Commissioner of Customs,
No.60, Rajaji Salai, Chennai-1.
3. The Directorate of Revenue
Intelligence, Chennai Zonal Unit,
27, G.N.Chetty Road, T.Nagar,
Chennai-17.
4. The Intelligence Officer,
Directorate of Revenue
Intelligence, Chennai Zonal
Unit, 27, G.N.Chetty Road,
T.Nagar, Chennai-17.
5. The Assistant Director,
Ministry of Finance,
Department of Revenue,
Directorate of Revenue
Intelligence, 27, G.N.Chetty
Road, T.Nagar, Chennai-17.

RS



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N.ANAND VENKATESH,J

RS

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WMP.Nos.31941 & 31942
of 2025

06.11.2025