IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-09-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No.28694 of 2025

M/s HI Rexine
No.458, Mint Street
Sowcarpet, Chennai 600 079
rep.by its Proprietor Mr.Sanjay Kumar ... Petitioner

Vs

The Addl. Commissioner of Customs
(SEZ-FTWZ)
Preventive Commissionerate
No.60, Rajaji Salai, Customs House
Chennai 600 001 ... Respondent

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for records connected with the impugned Provisional Release Order dated 15.07.2025 in F.No.GEN/ADJ/Misc/314/2025-SEZ-FTWZ issued by the Respondent herein and to quash the same to the extent of condition specified at para 1 and 3 of the said impugned Provisional Release order dated 15.07.2025, for the purpose of granting provisional release of the seized goods covered under Bill of Entry No.7882362 dated 20.01.2025 and consequently to modify the above said condition for the purpose of provisional release of the said goods in terms of the ruling of the Hon'ble Apex Court in the case of M/s.Navshakti Industries-2011 (269) ELT (A-146) (SC) r/w the Customs (Provisional Duty Assessment) Regulations, 1963 and also in terms of the past contemporaneous clearance of the very same goods imported by the petitioner concern, which goods admittedly came to be assessed and cleared by proper officer of customs.

For Petitioner : Mr.S.Baskaran

For Respondent : Mrs.Revathi Manivannan
Senior Standing Counsel

ORDER

This writ petition has been filed challenging the impugned Provisional Release Order dated 15.07.2025 issued by the respondent to the extent of condition specified at para 1 and 3 of the said impugned Provisional Release order dated 15.07.2025, for the purpose of granting provisional release of the seized goods covered under Bill of Entry No.7882362 dated 20.01.2025 and consequently to modify the above said condition for the purpose of provisional release of the said goods.

2. The petitioner had imported goods which are 'PVC Coated Fabric' vide the subject bill of entry and the goods were moved to the Special Economic Zone unit situated at Nandiyambakkam, Chennai. The petitioner had approached the respondent for clearance of the goods from the Special Economic Zone unit. The petitioner was informed that the DRI officials have initiated investigation and only after obtaining the test report, a decision would be taken for release of the goods. Accordingly, the DRI detained the goods vide the panchanama dated 25.01.2025 covered by the subject bill of entry. Since the various representations given by the petitioner to the authorities for provisional release of the goods evoked no response, the petitioner filed a writ petition in W.P.No.15944 of 2025 seeking for a direction to the authorities to consider their case for provisional release of goods and this Court, by order

dated 02.06.2025, directed the authorities to pass final orders on the representation submitted by the petitioner, in the light of the judgment of the Apex Court in the case of M/s Navshakti Industries and also after giving due consideration to Regulation 2 of the Customs (Provisional Duty Assessment) Regulations, 2011, within a period of four weeks.

3. Pursuant to the above order, the respondent has issued the impugned provisional release order dated 15.07.2025 directing the petitioner to furnish bank guarantee to the tune of Rs.10,00,000/- and a bond equivalent to the re-determined value of the goods, which is Rs.35,00,000/-. Aggrieved by the same, the present writ petition has been filed before this Court.

4. The learned counsel for petitioner submitted that the issue involved in the present case is squarely covered by the earlier order passed by this Court in W.P.No.32472 of 2025 dated 18.09.2025. The learned counsel submitted that the conditions that were imposed by this Court in that order can be applied to the petitioner also and the petitioner will abide by the same.

5. The learned Senior Standing Counsel appearing on behalf of the respondent vehemently opposed the relief sought for by the petitioner, on the ground that as against the impugned provisional release order, there is an appeal remedy available to the petitioner. Even on merits, the learned Senior

Standing Counsel submitted that the authority has re-determined the value of the goods to the tune of Rs.35,00,000/- and if at all the petitioner wants the release of the goods, the petitioner has to either pay the re-determined duty for the re-determined value or furnish a bank guarantee as has been directed by the respondent to the tune of Rs.10,00,000/-. The learned counsel therefore submitted that the impugned provisional release order that has been put to challenge in the present writ petition does not warrant the interference of this Court.

6. This Court has carefully considered the submissions made by the learned counsel on either side and the materials available on record.

7. The respondent has exercised jurisdiction under Section 110A of the Customs Act, 1962. The respondent has taken into consideration the re-determined value of the goods under the subject bill of entry to the total tune of Rs.35,00,000/- and the petitioner is supposed to pay the re-determined duty, which comes to Rs.10,00,000/-. It is stated that the matter is at the stage of issuance of notice to the petitioner and the adjudication is pending. Under such circumstances, this Court must only see as to whether the conditions imposed by the respondent in the impugned provisional release order require the interference of this Court.

8. The above issue was dealt with by this Court in W.P.No.32472 of 2025 and by order dated 18.09.2025, this Court held as follows:-

> "12. This Court is not dealing with the merits of the case since what has been put to challenge is the provisional release order and that too questioning some of the onerous conditions. While undertaking this exercise, it will suffice to take note of some of the earlier orders passed by this Court. One such order was passed in the case of **Green Line Vs. Commissioner of Customs, Chennai-IV**, reported in **2016 (340) E.L.T 140 (Mad)**. That was also a case, which involved differential duty of non prohibited goods. Similar conditions were imposed and the said writ petition was disposed of by this Court in the following terms:
>
> > *"8. In the light of the above discussions, the Writ Petition is disposed of with the following directions:*
> >
> > *(i) The petitioner is directed to remit the entire duty as assessed by them;*
> >
> > *(ii) The petitioner is directed to pay 50% of the differential duty which has been arrived at by the Department as Rs. 22.72 lakhs;*
> >
> > *(iii) The petitioner is directed to execute a bond for the remaining amount to the satisfaction of the respondents.*
> >
> > *(iv) The petitioner shall execute an indemnity bond stating that in the event of Shri.S.Ariya raising any claim over the goods or concerning the use of IEC code issued in favour of M/s. Green Line, the petitioner Mr.Mohamed Kalith alone would be fully responsible for the same and no liability can be fastened on the respondent Department and the indemnity bond should be furnished in the form approved by the*

respondents."

13. This order of the learned Single Judge was subsequently confirmed by the Hon'ble Division Bench of this Court in **W.A.No.1243 of 2016 dated 25.10.2016**. It is also relevant to take note of a Division Bench order of this Court in the case of **Commissioner of Customs and Others vs. Sri Venkateshwara Paper Boards Rep.by its General Manager Mr.L.Barath** reported in **2022 (379) E.L.T 310 (Mad)**, which involved prohibited goods and the writ petition was disposed of in the following terms:

> "*32. We have perused the order dated 29.12.2020 permitting provisional release of the cargo, subject to the following conditions:*
>
> *(a) execution of a bond for Rs.34,65,334/-,*
>
> *(b) production of cash security/bank guarantee for Rs. 12,12,867/- towards redemption fine and penalty, and*
>
> *(c) payment of duty of Rs. 9,43,411/-.*
>
> *33.We find nothing unreasonable about conditions (a) and (c), however condition (b) is concerned directing the Importer to furnish Bank guarantee/cash security towards redemption fine and penalty would be harsh as the show-cause notice is yet to be adjudicated. Therefore, we modify the condition (b) alone by directing the Importer to execute the bond for Rs. 12,12,867/-.*
>
> *34. On compliance of the execution of the bond for the amount mentioned in conditions (a) and (b) supra and payment of duty as mentioned in condition (c), the Revenue shall permit provisional release of the cargo within seven (7) days therefrom, which shall be subject to the result of the adjudication of the show-cause*

notice."

14. In the case in hand, the goods that are involved are Viscose Knitted Fabric, which according to the Department has been misclassified and undervalued. Therefore, the Department is proceeding further with the adjudication proceedings. Pending the same, the impugned provisional release order has been passed.

15. The conditions that have been imposed in the provisional release order are as follows:

Specific Conditions:

1. The importer shall file the DTA Bill of Entry for provisional release for the re-determined value and shall pay re-determined duty as mentioned in seizure memo and / or NOC issued by the DRI, HQ, New Delhi. The Bill of Entry shall be assessed in view of pending investigation.

2. The importer shall execute a Bond for Rs.91,00,000/- (Rupees Ninety One Lakhs only)

3. The importer shall furnish a Bank Guarantee(BG) for Rs.22,00,000/- (Rupees Twenty Two Lakhs only)

16. Taking into consideration the facts and circumstances of the case and considering the grounds raised in the writ petition and also taking into consideration of the earlier orders passed by this Court, this Court is inclined to modify the conditions imposed in the provisional release order as follows:

a) The petitioner is directed to remit the entire duty as declared by them.

b) The petitioner is directed to pay 50% of the differential duty for the total value arrived at by the

Department at Rs.90,95,299.23/-

c) The petitioner shall execute a bond for a sum of Rs.91,00,000/-(Rupees Ninety One Lakhs only) and

d) The petitioner shall also execute a bond for a sum of Rs.22,00,000/- (Rupees Twenty Two Lakhs only) instead of Bank Guarantee. On compliance, the goods shall be released by the respondents within a period of seven days from the date of compliance of the conditions."

9. The above yardstick can be applied in the present case also and hence, this Court is inclined to modify the conditions imposed in the impugned provisional release order issued by the respondent, as follows:-

a) The petitioner is directed to remit the entire duty as declared by them;

b) The petitioner is directed to pay 50% of the differential duty for the total value arrived at by the Department to the tune of Rs.35,00,000/-;

c) The petitioner shall execute a bond for a sum of Rs.35,00,000/-(Rupees Thirty Five Lakhs only) and

d) The petitioner shall also execute a bond for a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) instead of Bank Guarantee. On compliance, the goods shall be released by the respondent within a period of seven days from the date of compliance of the conditions.

10. This writ petition is disposed of in the above terms. Consequently, W.M.P.Nos.32132 & 32134 of 2025 are closed. No costs.

23-09-2025

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

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To

1. The Addl. Commissioner of Customs
   (SEZ-FTWZ)
   Preventive Commissionerate
   No.60, Rajaji Salai
   Customs House
   Chennai 600 001

N.ANAND VENKATESH J.

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