IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

WP No.31034 of 2024
and
WMP Nos.33654 and 33655 of 2024

M/s.Apertronics Private Limited
Represented by its Director,
Mr.Rakesh Chowdary Muppavarapu ... Petitioner

versus

1.The Senior Intelligence Officer,
Directorate of Revenue Intelligence,
No.27, G.N. (Chetty Road), T.Nagar,
Chennai- 600 017

2.The Commissioner of Customs,
Chennai II Commissionerate,
Customs House, 60 Rajaji Salai,
Chennai - 600 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned seizure memorandum dated 20.09.2024 in F.No.DRI/CZU/VIII/48/ENQ-01/INT-29/2024 issued by the first respondent and quash the same and further direct the respondents to release the goods imported vide Bill of Entry No.5236264 dated 24.08.2024 without imposing the Anti dumping Duty in terms of Notification

No.15/2023-Customs (ADD) dated 22.12.2023 and pass orders.

For the Petitioner	:Mr.Gokul Raj for Ms.S.P.Sri Harini
For the Respondents	:Mr.Rajnish Pathiyil Senior Panel Counsel for first respondent Mrs.Revathi Manivannan Standing Counsel for second respondent

ORDER

The present writ petition is filed for a writ of certiorarified mandamus to call for the seizure memorandum 20.09.2024 issued by the first respondent and to quash the same and further direct the respondents to release the goods imported vide bill of entry No.5236264 dated 24.03.2024 without imposing anti dumping duty in terms of Notification No.15/2023-Customs (ADD) dated 22.12.2023.

2. The petitioner is registered under the Ministry of Micro, Small & Medium Enterprises Act and engaged in the business of manufacture of

SMT Stencil. It is submitted that the the petitioner had imported "SMT Stencil Laser Cutting Machine" from M/s. Nippon Gokin, Malaysia. The petitioner filed the above bill of entry No.5236264 on 24.08.2024 with the Chennai Sea Customs and according to the petitioner, appropriate duties were paid.

3. The petitioner had also availed loan from Small Industries Development Bank of India for procuring the subject goods from Malaysia. Import of industrial laser machines imported from China are subject to anti-dumping duty (hereinafter referred to as 'ADD') in terms of Notification No.15/2023-Customs (ADD) dated 22.12.2023. On the basis of certain information alleged to have been received, revealing misdeclaration of the country of origin, the officers of the first respondent examined the imported consignment at the container freight station namely, M/s.O-Yard CFS on 30.08.2024. Pursuant thereto, the premises of the petitioner was searched by the officer of the Directorate of Revenue Intelligence-Coimbatore Regional Unit and the Directorate General of GST Intelligence -Hosur Regional Unit on 31.08.2024 and the mobile phone and laptops were seized

for further examination. The petitioner was issued with a summon and his statement was recorded on 03.09.2024. The petitioner would submit that the consignment was covered by a Certificate of Origin having Reference in Certificate No.H-2162223, issued by the Malay Chamber of Commerce, Malaysia, certifying that the imported good has its origin in Malaysia. However, in view of the suspicion entertained by the respondent, the petitioner requested a confirmation vide its Email dated 09.09.2024 from the Malay Chamber of Commerce, Malaysia. The Malay Chamber of Commerce in turn vide their email dated 11.09.2024 confirmed that the genuineness of the certificate of origin bearing Certificate No.H-2162223, and its content.

4. However, the seizure memo 20.09.2024 was issued on the premise that there was misdeclaration of country of origin of the said machine as Malaysia only with a view to evade applicable anti dumping duty. At this stage, the writ petition has been filed praying for quashing of the seizure memorandum dated 20.09.2024 as well as for a direction for provisional release of the goods.

5. The learned counsel for the petitioner would submit that once a certificate of origin is furnished, unless and until the same is questioned and investigation is carried out with the authorities of the State of Country of origin, the detention is unjustified. More so, when there is confirmation by the Malay Chamber of Commerce, as to the genuineness of the certificate of origin.

6. The learned counsel for the respondent on the other hand would place reliance upon the counter to submit that they have specific information that the petitioner had imported machinery from China which was routed through Malaysia only with a view to evade appropriate anti dumping duty. It was also submitted that the country of origin certificate itself is bogus. It was further stated that the Whatsapp chat of the petitioner would reveal that the petitioner had conversation with Chinese supplier and the Malaysian trader. Further the petitioner had in his statement stated that the goods were procured by the Malaysian entity viz., M/s. Nippon Gokin Sdn, Malaysia fromKun Shan Latech Precision Electronic Technology,

China and thus the challenge to the seizure memo is unsustainable.

7. It may be relevant to note that in the case of Radha Industries v. Commissioner of Customs, Chennai, in W.P.No.30338 of 2023 , while dealing with similar set of circumstances, this Court was pleased to issue the following directions:

> 9. .....
>
> (i) The first respondent is directed to conclude the verification within a maximum period of thirty days from the date of receipt of a copy of this order. If the certificate is found to be genuine upon such verification, the goods shall be released without insisting on payment of duty. On the other hand, if the certificate is found to be not genuine, it is open to the respondents to take further action in accordance with law.
>
> (ii) If the verification is not completed within the above mentioned period of thirty days, the petitioner would be entitled to provisional release of the goods on providing a bond for 100% of the value of goods but without insisting on a bank guarantee. Upon completion of verification, further action will be as indicated in clause (1) above, i.e. based on the outcome of such verification.

(iii) The release of the goods shall, in all situations, be subject to approval by the relevant food safety authorities.

8. On this being point out, the learned counsel for the petitioner as well learned counsel for the respondent, would submit that the writ petition may be disposed of on identical terms.

9. In view thereof, the writ petition stands disposed of on the following terms:

i) The first respondent is directed to conclude the verification within a maximum period of thirty days from the date of receipt of a copy of this order. If the certificate is found to be genuine upon such verification, the goods shall be released without insisting on payment of Anti Dumping Duty. On the other hand, if the certificate is found to be not genuine, it is open to the respondents to take further action in accordance with law.

ii) If the verification is not completed within the above mentioned period of thirty days, the petitioner would be entitled to provisional release of the goods on providing a bond for 100% of the value of goods without insisting on a bank guarantee. Upon completion of verification, further action will be as indicated in clause (i) above i.e. based on the outcome of such verification.

10. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

21.01.2025

Index : Yes/No
Neutral Citation : Yes/No
mrn

To:

1.The Senior Intelligence Officer,
Directorate of Revenue Intelligence,
No.27, G.N. (Chetty Road), T.Nagar,
Chennai- 600 017

2.The Commissioner of Customs,
Chennai II Commissionerate,
Customs House, 60 Rajaji Salai,
Chennai - 600 001.

<u>MOHAMMED SHAFFIQ, J.</u>
(mrn)

<u>WP No.31034 of 2024</u>
<u>and</u>
<u>WMP Nos.33654 and 33655 of 2024</u>

21.01.2025