In the High Court of Judicature at Madras

Reserved on **23.9.2025**	Delivered on : **26.9.2025**

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.33723 of 2025
& WMP.No.37839 of 2025

M/s.Aashi Creations, rep.by
its Proprietor Mr.Shravan
Kumar Tripati ...Petitioner

Vs

1.The Principal Commissioner of
Customs (Chennai-III),
Preventive Commissionerate,
Custom House, No.60,
Rajaji Salai, Chennai-1.

2.The Additional Director General,
Directorate of Revenue Intelligence,
7th Floor, Drum Shaped Building,
I.P.Bhawan, I.P.Estate,
New Delhi-110002. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents herein to permit the petitioner to re-export the goods viz.1302 Packages of Textile Fabric coated with Plastics imported vide Bill Entry

No.7699979 dated 09.1.2025 and Bill of Lading No. KMTCSHK9434439.

For Petitioner : Mr.A.K.Jayaraj
For Respondents : Mr.Rajnish Pathiyil, SPC

ORDER

This writ petition has been filed seeking for the issuance of a Writ of Mandamus directing the respondents to re-export the goods.

2. Heard both.

3. The case of the petitioner is as follows :

(i) The petitioner is in the trade of import of textile fabric coated with plastics. They placed an order with a company at China for supply of textile fabric coated with plastics and the consignment also reached the Chennai Port. Further, the goods were taken to the SEZ Ware House.

(ii) The goods were shipped under invoice dated 25.12.2024 and under Bill of Entry dated 09.1.2025. The petitioner also declared the value of the goods at USD 9043 and requested the first respondent -

Department to release the goods. But, the petitioner was informed that the Directorate of Revenue Intelligence has undertaken an investigation after finding that that the classification of goods declared under the Customs Tariff Heading (CTH) was not correct and that there has been a misclassification. The petitioner was also informed that samples were drawn and that the goods were detained through a detention memo dated 19.2.2025.

(iii) Later, the petitioner came to know that test results were received whereby the goods were found to be misclassified on the basis of the test report of the Central Revenues Control Laboratory (CRCL), New Delhi. Accordingly, the goods were detained and were placed under seizure under Section 110 of the Customs Act, 1962 (for short, the Act) vide seizure memo dated 02.4.2025.

(iv) The petitioner was issued with summons to appear before the Investigation Officer and the petitioner attended the inquiry conducted at New Delhi. The petitioner initially requested for provisional release of goods since the quality of goods would diminish in the market over a period of time. The repeated representations made by the petitioner did not yield any result and the petitioner was facing loss. Hence, the petitioner requested for re-export of the goods to the supplier at China since the supplier also accepted to take back the goods.

(v) The grievance of the petitioner is that the respondents are not allowing the re-export of goods back to the supplier. It is under these circumstances, the above writ petition came to be filed before this Court.

4. The learned Senior Panel Counsel appearing for the respondents submitted that permission is yet to be given by the Directorate of Revenue Intelligence since the investigation is pending and that the petitioner has to necessarily await adjudication and only thereafter, a decision can be taken for the re-export of goods. Ultimately, he sought for dismissal of this writ petition.

5. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record.

6. In the case in hand, the complaint against the petitioner is that they had misclassified the goods under CTH 59039090 instead of

classifying the goods under CTH 54075290, 58013690, 55162200, 60063200 and 60063400.

7. Section 110 of the Act deals with seizure of goods. Section 111 deals with confiscation of improperly imported goods.

8. The learned counsel for the petitioner submitted that in the case in hand, at best, the goods may fall under Section 111(m) of the Act and that even in such an event, Section 125 gives an option to pay the fine in lieu of confiscation, which will be decided after adjudication.

9. The learned counsel for the petitioner placed reliance upon the judgment of the Hon'ble Apex Court in the case of ***Siemens Ltd.Vs. Collector of Customs [reported in 1999 (113) ELT 776].***

10. By relying upon the said judgment of the Hon'ble Apex Court, a learned Single Judge of this Court passed an order in the case of ***Sankar Pandi Vs. Union of India [reported in 2002 (141) ELT 635]*** wherein it was held that the petitioner therein was entitled to re-export the articles in question and that it was necessary for him to pay

retention fine as imposed by the Authorities. This Court ultimately held that at best, penalty could be imposed. This Court also reduced the penalty and a direction was given to the petitioner therein to pay the reduced penalty.

11. The learned counsel for the petitioner also brought to the notice of this Court a Division Bench judgment of the Madurai Bench of this Court in ***Assistant Commissioner of Customs (Imports), Tuticorin Vs. Mahadev Enterprises [reported in 2023 (3) CENTAX 8]*** wherein this Court permitted the re-export of goods after executing a bond to cover the value of the goods pending adjudication.

12. The learned counsel for the petitioner further brought to the notice of this Court the other views taken by different High Courts wherein a bank guarantee can be directed to be executed for some percentage of the customs duty that may be leviable on the re-determined value of the goods.

13. In the case in hand, the investigation has already been completed and based on the CRCL test report, it is alleged that there

was a misclassification of the goods and that the goods were undervalued. This may result in confiscation under Section 111 of the Act and ultimately, the Adjudicating Authority can also give an option to the petitioner to pay the fine in lieu of confiscation.

14. The crux of the issue is as to whether the goods will have to remain in India or the petitioner can be permitted to re-export the goods to the supplier at China since the supplier had also agreed to take back the goods.

15. The logical end to the adjudication proceedings will result in directing the petitioner to pay the fine/penalty and differential duty. For this purpose, it is not necessary to retain the goods in India. Therefore, to strike a balance, considering the fact that the goods are lying in India from January 2025, certain conditions can be imposed on the petitioner and on fulfilment of the conditions so imposed, the petitioner can be permitted to re-export the goods. This view has been taken by this Court and other High Courts while granting such a relief.

16. In the light of the above discussions, the writ petition is disposed of in the following terms :

(i) The petitioner shall execute a bond for the total value of the differential duty payable by them;

(ii) The petitioner shall furnish a bank guarantee equivalent to 20% of the re-determined value; and

(iii) On the petitioner fulfilling the above two conditions, they shall be permitted to re-export the goods within a period of 12 days from the date of compliance of the above conditions as imposed by this Court.

No costs. Consequently, the connected WMP is closed.

26.9.2025

To
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RS

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