IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2025

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

W.P.No.44614 of 2025

M/s.JMD Enterprises
Flat No.6A, Plot No.7D & 8
Sai Ganesh Complex Vichumbe
Navi Mumbai Panvel, Raigad, Maharashtra 410 206
Rep. by its Authorised Signatory Mr.J.Sathish Kumar .. Petitioner

Vs.

1.The Principal Commissioner of Customs (Preventive)
Chennai III Preventive Commissionerate
No.60, Rajaji Salai, Custom House, Chennai - 600 001

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

3.The Additional Director General
DRI Headquarters, Directorate of Revenue Intelligence
Plot No.11-B, Institutional Area
Vasant Kunj, New Delhi 110 070

4.The Deputy Director (CI)

DRI Headquarters, Directorate of Revenue Intelligence
Plot No.11-B, Institutional Area
Vasant Kunj, New Delhi 110 070

5.The Inquiry Officer/SIO
Directorate of Revenue Intelligence (DRI)
7th Floor, Drum Shaped Building, I.P.Bhawan
I.P. Estate, New Delhi 110 002 .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents herein to permit the petitioner to re-export the goods provisionally *viz.,* directing the Respondents herein to permit the petitioner to re-export the goods provisionally *viz*., 990 bales of Cotton knitted fabric yarn of different colours, which was originally imported *vide* Bill of Lading No.A92EX26990 and the filing of Bill of Entry No.7597487 dated 03.01.2025 in terms of various judicial pronouncements rendered by various Hon'ble High Courts and also this jurisdiction High Court.

For Petitioner : Mr.S.Baskaran

For Respondents : Mr.Nalinidhar
Standing Counsel

O R D E R

This writ petition has been filed seeking issuance of a Writ of Mandamus directing the respondents herein to permit the petitioner to re-export the goods *viz.,* 990 bales of Cotton knitted fabric yarn of different colours *vide* Bill of Entry No.7597487, dated 03.01.2025 and Bill of Lading No.A92EX26990.

2. The case of the petitioner is that they imported Cotton woven fabric. These goods were shipped from M/s.Shaoxing Tiandu Textiles Co. Ltd., China, through invoice dated 12.12.2024 and filed warehousing Bill of Entry dated 03.01.2025 for SEZ import Z type and claimed for clearance of the goods.

3. The investigation authorities informed the petitioner that investigation is being done and later, it was found that the goods declared under CTH 60062300 and the same has been classified under different CTH. Thereafter, the petitioner was informed that the samples were taken and it has been sent to CRCL, New Delhi, for testing and thereafter, the goods have been detained. The goods were seized under seizure memo dated 26.05.2025 stating that all the goods were found

to be misclassified on the basis of CRCL test report and it is further stated that the CTH ascertained that the goods have been misclassified and different CTH have been ascertained on the basis of the CRCL test report.

4. The petitioner was thereafter issued with summons for appearance before the Investigating Officer at New Delhi. The petitioner also attended the enquiry. The Intelligence Officer of DRI, informed that since the goods imported was found to be misclassified, the goods are liable for confiscation under the provisions of the Customs Act, 1962.

5. The grievance of the petitioner is that there is long delay in the release of the goods and therefore, the petitioner is seeking for re-export of the goods. However, no decision has been taken till date and it is under these circumstances, the present writ petition came to be filed before this Court.

6. The issue involved in the present writ petition has already been dealt with by this Court in W.P.No.33723 of 2025 dated 07.10.2025 and the relevant portions are extracted hereunder:

> ”7. Section 110 of the Act deals with seizure of goods. Section 111 deals with confiscation of improperly imported goods.
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> 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.
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> 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].***
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> 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.
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> 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."

7. In view of the above, 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 twelve (12) days from the date of compliance of the above conditions as imposed by this Court.

No costs.

18.11.2025

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Index : Yes/No
Neutral Citation : Yes/No

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N. ANAND VENKATESH, J.

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