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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 6492/2023, CM APPL. 25557/2023 & CM APPL. 28010/2024**

M/S ANOMSOFT SOLUTIONS PVT LTD & ANR......Petitioner
Through: None

versus

PRINCIPAL COMMISSIONER OF CUSTOMS ACC IMPORTS NEW DELHI & ANR. .....Respondent
Through: Mr. Aditya Singla, SSC, CBIC with Ms. Arya Suresh Nair, Mr Akhil Sharma and Mr Dhananjay Gautam, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

<u>O R D E R</u>

% 23.12.2025

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner seeking release of the consignments imported by the Petitioner Company which are detained by the Custom authorities.

3. The background giving rise to this petition is that the Petitioner Company, incorporated on 26th June, 2013, under the provisions of the Companies Act, 2013, had imported certain chemicals to Delhi on 11th October, 2022 and 19th October, 2022, and the same were seized by the Customs Department on the ground that incorrect exemptions were being claimed by the Petitioner.

4. The present writ petition was filed seeking release of the said chemicals seized on 11th October, 2022 and 19th October, 2022, and notice was issued initially in this matter on 16th May, 2023.

5. Thereafter, however, ld. Counsel for the Petitioner sought discharge from the matter on 10th May, 2024, due to lack of communication with the Petitioner and necessary instructions. The matter was then adjourned to enable the Petitioner to appear through an alternate Counsel. Till date, the Petitioner has not been represented. In the meantime, a show cause notice was issued in this matter on 1st October, 2024*(hereinafter, 'the SCN')*.

6. In the said SCN, it is clearly recorded that the consignments were examined on 5th November, 2022 in the presence of Mr. Rajesh Kumar, G-Card Holder No.25/2013 of M/s Sea Queen Shipping Services Private Limited (Custom Broker of the importer/Petitioner) and *Panchnama* dated 5th November, 2022 were drawn.

7. The SCN further states that representative samples of the imported items couldn't be drawn as the same appeared to be very sensitive. SIIB, vide letter dated 28th October, 2022, requested the CRCL, New Delhi to inform them whether the drawing of samples from the seized shipments required any technical expertise or may be drawn as drawn in other general goods. They were also requested to nominate a technical expert to draw the samples if the process required some technical expertise.

8. Accordingly, the CRCL, vide letter dated 9th November, 2022, informed that the imported item is a complex compound and the chemical sample can be drawn as drawn in other general goods. They further advised safety precautions such as wearing suitable protective clothing and gloves and other protective equipments.

9. Meanwhile, the SCN also states that the importer/Petitioner requested for warehousing of 06 consignments covered under the several bills of entry dated 19th October, 2022 and 11th October, 2022, into the Customs Bonded

Warehouse. The said request of the importer/Petitioner was stated to be accepted by the competent authority and permission for warehousing of consignments was granted vide letter dated 9th November, 2022.

10. Thereafter, summons were also issued to the Petitioner for appearance on 22nd November, 2022. However, the Petitioner didn't appear on the said date. Accordingly, the registered premises of the Petitioner found mentioned in the import invoices and the addresses mentioned on the letterhead of the Petitioner were visited for verification on 23rd November, 2022. Upon inspection, no one from the Petitioner company were found at the said premises and it was found that the Petitioner Company did not exist at the said addresses.

11. Summons dated 25th November, 2022 and 15th February, 2023 were again issued to the Petitioner and upon issuance of these summons, one Mr. Vijay Kumar, Director of the Petitioner company appeared and submitted that he was merely the Director of the Petitioner company on papers and was working on the directions of one Mr. Rajesh Kalra who had provided him financial assistance from time to time.

12. In the meantime, the laboratory test results were also received and the same was not a comprehensive test report. The CSIR-IICT, Hyderabad informed that the items are other than that they are declared in the above-mentioned bills of entry. However, they couldn' t provide the exact description of the imported items.

13. Thereafter, repeated summons to Mr. Vijay Kumar, as also to other representatives of the Petitioner/importer, however, no one appeared. Even the CHA of the importer submitted that they have authorized their branch in-charge Sh. Rajesh Kumar to attend and submit the statement. However, no

one appeared.

14. Finally, the Petitioner, *vide* e-mail dated 12th March, 2024, informed that their supplier's staff was unable to handle the shipment efficiently at the time of packing, due to which they are unaware as to what is the material's true specifications. They further submitted that the seized material was of no use to them and requested to relinquish/withdraw the shipment.

15. The SCN dated 1st October, 2024, was issued, and the said SCN therefore, sought to confiscate the seized consignment and impose penalties. Pursuant to the said SCN, an Order-in-Original came to be passed on 28th October, 2025 *(hereinafter, 'the OIO')*, wherein, with respect to the reply and personal appearance of the importer, it is stated as under:

> *"38. The Noticees viz M/s Anomsoft Solutions Pvt. Ltd. Sh. Vijay Kumar and Sh. Anil Kumar, Directors of M/s Anomsoft Solutions Pvt. Ltd and Sh. Rajesh Kalra have not submitted any reply to the impugned SCN. In order to uphold the Principle of Natural Justice, Personal Hearing in the matter was fixed on 08.09.2025 however none of the Noticees nor their authorized representative appeared for Personal Hearing before the Adjudicating Authority. Besides, none of the Noticees sought any adjournment to the personal hearing. Accordingly further Personal Hearings were fixed on 22.09.2025 and 16.10.2025 but none of the Noticees attended the P.H. M/s sea Queen Shipping Services (P) Ltd. in response to P.H. letter dated 12.09.2025, submitted vide letter dated 24.09.2025 that they have already made written submissions in December 2024 and requested to consider the said submissions and drop the proceedings."*

16. The OIO pursuant to the said SCN has, therefore, been passed in the

absence of the Petitioner as they have failed to appear. The Petitioner, despite being fully aware of the proceedings that have been going on, as the goods have been confiscated and this petition has been filed seeking provisional release, chose to not appear before the Customs Department during the course of the proceedings.

17. The OIO which has finally been passed by the Customs Department directs absolute confiscation of the seized consignment and imposition of penalties. The effective portion of the OIO reads as under:

> "***ORDER***
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> *i. I reject the declared description for the item imported vide the Bills of Entry No. 2830334 dated 11.10.2022, 2829190 dated 11.10.2022, 2956394 dated 19.10.2022, 2953261 dated 19.10.2022, 2955289 dated 19.10.2022, 2954327 dated 19.10.2022, 2956999 dated 19.10.2022, 3522564 dated 29.11.2022, 3522562 dated 29.11.2022, 3522460 dated 29.11.2022, 3519333 dated 29.11.2022 and 3519323 dated 29.11.2022;*
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> *ii. I order to absolutely confiscate the impugned goods imported vide Bills of Entry No. 2830334, 2829190 both dated 11.10.2022, 2956394, 2953261, 2955289, 2954327, 2956999 all dated 19.10.2022 and 3522564, 3522562, 3522460, 3519333, 3519323 all dated 29.11.2022, having total assessable value of Rs. 89,24,78,538/- (Rs. Eighty Nine Crore Twenty Four Laklis Seventy Eight Thousand Five Hundred Thirty Eight Only) under Section 111(d) and 111(m) of the Customs Act, 1962 and to be destroyed.*
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> *iii. I impose a penalty of Rs.1,00,00,000/- upon M/s Anomsoft Solutions Pvt. Ltd. under 114AAof the Customs Act, 1962 for the acts of omission and/or commission, as brought out in the foregoing paras:*

iv. I impose a penalty of Rs. 1,00,00,000/- upon Sh. Vijay Kumar, Director of M/s Anomsoft Solutions Pvt. Ltd. under section 114AA of the Customs Act, 1962 for the acts of omission and/or commission, as brought out in the foregoing paras;

vi. I impose a penalty of Rs. 1,00,00,000/- upon Sh. Anil Kumar, Director of M/s Anomsoft Solutions Pvt. Ltd. under section 114AA of the Customs Act, 1962 for the acts of omission and/or commission, as brought out in the foregoing paras.

v. I impose a penalty of Rs. 1,00,00,000/- upon Sh. Rajesh Kalra, E-311 Basement, East of Kailash, New Delhi-110065 under section 114AA of the Customs Act, 1962 for the acts of omission and/or commission, as brought out in the foregoing paras;

vi. I impose a penalty of Rs. 1,00,00,000/- upon Sh. Rajesh Kalra, E-311 Basement, East of Kailash, New Delhi-110065 under section 114AA of the Customs Act, 1962 for the acts of omission ancllor commission, as brought out in the foregoing paras;

vii. I impose a penalty of Rs. 1,00,00,000/- upon M/s Sea Queen Shipping Services (P) Ltd. (Customs Broker of the Importer) under 114AAof the Customs Act, 1962 for the acts of omission and/or commission, as brought out in the foregoing paras."

18. The Court notes that even today, none appears for the Petitioner in the matter. Since the SCN has already been issued in the case and absolute confiscation of the seized consignment has been directed *vide* the OIO dated 28th October, 2025, this writ petition is no longer tenable and has become infructuous.

19. The Petitioner is, however, left to avail of its remedies in accordance with law in respect of the OIO dated 28th October, 2025 which has been passed by the Department.

20. The writ petition, along with the pending application, is disposed of in the aforesaid terms.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

DECEMBER 23, 2025
Ar./kk/ss