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

W.P.(C) 7316/2024

M/S SHINE INDUSTRIES .....Petitioner

Through: Mr. Akhil Krishan Maggu, Advocate

versus

COMMISSIONER OF CUSTOMS-EXPORT, INLAND CONTAINER DEPOT, TUGHLAKABAD, NEW DELHI & ANR. .....Respondent

Through: Mr. Aakarsh Srivastava, SSC
Mr. Anand Pandey, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

ORDER

% 29.07.2025

1. This hearing has been done through hybrid mode.

2. The Order in Original dated 27th August 2024 has now been placed on record.

3. The present petition under Article 226 of the Constitution of India has been filed by the Petitioner *inter alia* seeking directions to the Respondents for release of suspended duty drawback amount of Rs.29,32,941.10/- under shipping bill nos. 6633485, 6632874, 6632901, 6632867, 6632866 and 6632883 all dated 29th June, 2017.

4. The case of the Petitioner is that, it had exported various garments *vide* the said shipping bills which were initially seized on 23rd August, 2017. However, the said goods were thereafter allowed to be provisionally exported *vide* letter dated 12th September 2017 subsequent to which summons were issued to the Petitioner.

5. At the time of provisional release, the Petitioner is stated to have

furnished a Bank Guarantee of Rs.9,80,000/-. The Show Cause Notices were issued on 20th December, 2017 and a hearing was also held.

6. The Petitioner had initially filed a writ petition, being ***W.P.(C) 1107 of 2021***, wherein, it had sought opportunity of a hearing which was disposed of *vide* order dated 29th January, 2021 granting the Petitioner the said opportunity. Upon the Petitioner availing the same, an Order-in-Original dated 27th August, 2024 came to be passed. The operative parts of the said order reads as under:

> *"i. I reject the declared unit price i.e. USD 9.15 per piece (Rs. 582.855) for Men's Polo Shirt being exported vide Shipping Bill No. 6633485 dated 09.06.2017, USD 9.15 per piece (Rs. 582.855) for Men's Mens Knitted Shirt F/S being exported vide Shipping Bill No. 6632867 dated 09.06.2017, USD 9.15 per set (Rs. 582.855) for Mens Knitted Ensemble set being exported vide Shipping Bill No. 6632867 & 6632883 both dated 09.06.2017 which were being exported by M/s Shine Industries, in terms of Rule 8 of the Customs Valuation (Determination of value of Export Goods) Rules, 2007 and re-determine the value as* ***Rs. 99/- per piece*** *for* ***Men's Polo Shirt, Rs. 69/- per piece for Men's Mens Knitted Shirt F/S*** *and* ***Rs. 136/- per piece for Mens Knitted Ensemble set*** *respectively, in terms of Rule 5 and 6 of the Customs Valuation Determination of value of Export Goods) Rules, 2007.*
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> *ii. I reject the declared unit price i.e. USD 9.5 per piece (Rs. 605.15) for Mens Knitted Pajama being exported vide Shipping Bill No. 6632883 dated 09.06.2017, USD 12.45 (Rs. 793.065) for Boys Jacket with Hoody being exported vide Shipping Bill No. 6632874, 66322901, 6632866 and 6632883 all dated 09.06.2017 which were being exported by M/s Shine Industries, in terms of Rule 8 of the Customs Valuation (Determination of value of*

Export Goods) Rules, 2007 and re-determine the value as ***Rs. 50/- per piece*** *for* ***Mens Knitted Pajama*** *and* ***Rs. 95/- per piece for Boys Jacket with Hoody*** *in terms of Rule 5 and 6 of the Customs Valuation (Determination of value of Export Goods) Rules, 2007.*

iii. I confiscate under Section 113(i) of the Customs Act 1962, the aforesaid goods i.e. 44976 Pcs of Men's Polo Shirt, Men's Mens Knitted Shirt F/S, Mens Knitted Ensemble set, Mens Knitted Pajama and Boys Jackets with Hoody being exported vide Shipping Bill Nos. 6633485, 6632874, 6632901, 6632867, 6632866, 6632883 all dated 09.06.2017, having declared value of Rs. 2,99,31,371.49/- which has been re-determined to Rs. 40,04,736. However, 1 allow the redemption of the confiscated goods on payment of redemption fine of ***Rs. 4,00,000/- (Rs. Four Lakhs only)*** *to the exporter under the provisions of Section 125 of the Customs Act, 1962.*

iv. I impose a penalty of ***Rs. 3,00,000/- (Rs. Three Lakhs only)*** *and* ***Rs. 3,00,000/- (Rs. Three Lakhs only)*** *on M/s Shine Industries, under Section 114 (ili) and 114AA of the Customs Act, 1962 respectively;*

v. I hereby order that the Bank Guarantee amounting Rs 9,80,000/- tendered by the exporter for provisional release of the goods shall be enforced and appropriated towards redemption fine/penalty imposed on them.

vi. I order that Drawback and other export incentives be allowed as per redetermined value as discussed above, at the time of finalization of the subject Shipping Bills.

vii. The Deputy/Assistant Commissioner of Export Shed, ICD, TKD (Export) may finalize the assessments of the shipping bills accordingly."

7. Mr. Akhil Krishan Maggu, ld. Counsel appearing for the Petitioner submits that since the bank guarantee of Rs.9,80,000/- is already available with the Respondent, the Respondent may give effect to the impugned order, by adjusting the proceeds from the bank guarantee against redemption

fine/penalty and the remaining export incentives, if any, may be released to the Petitioner.

8. Mr. Srivastav submits that shipping bills may have to be finalised before making the said set of/adjustments

9. In view of the above facts, the Court is of the opinion that the order dated 27th August 2024 deserves to be given effect to and the Bank Guarantee which is available with the Respondent-Department is liable to be adjusted against the redemption fine and other liabilities, if any.

10. Accordingly, let the Respondent-Department adjust the bank guarantee amount and a sum of Rs. 20,000/- against the liabilities imposed vide the order dated 27th August 2024 and release the remaining drawbacks and export incentives, if any, to the Petitioner within a period of two months. On the other hand, it is also clarified that, if the redemption fine and other liabilities exceed the value of the bank guarantee, the Respondent-Department shall be fully entitled to recover the same from the Petitioner, before releasing the drawbacks.

11. If a personal hearing is required, they may call the Petitioner for clarification.

12. The Petition is disposed of. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

JULY 29, 2025/*pd/Ar.*