IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **29.01.2026**

CORAM

THE HONOURABLE MR JUSTICE **ABDUL QUDDHOSE**

W.P.No.4857 of 2025
and
W.M.P.No.5382 of 2025

Super Spinning Mills Limited,
Represented by Mr.Sumanth Ramamurthi,
Chairman & Managing Director,
ELGI Towers,
737-D Green Fields, PB No.7113, Puliakulam Road,
Coimbatore – 641 045. ... Petitioner

vs.

1.The Assistant Commissioner of Customs – BRC DBK,
Office of the Commissioner of Customs - Chennai – IV,
No.60, Rajaji Salai,
Chennai – 600 001.

2.The Commissioner of Customs (Appeal-I),
3rd Floor, New Customs House,
GST Road, Meenambakkam,
Chennai – 600 016. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records in order-in-original No.107037/2024 dated 21.05.2024 passed by the 1st respondent herein u/s 75(1) of the Customs Act, 1962, read with Rule 16A of the Customs Central Excise Duties and Services Tax Drawback Rule 1995 relating to period of 2007 – 2013, quash the same.

For Petitioner : Ms.S.Srinirajani
For Respondents : Mr.Su.Srinivasan
Senior Central Government Standing Counsel

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ORDER

This Writ Petition has been filed challenging the impugned order-in-original, dated 21.05.2024 passed by the 1st respondent confirming the demand made in the demand/show cause notice dated 31.03.2017 for recovery of duty drawback amount of Rs.15,97,504/- from the petitioner for the subject shipping bills under Rule 16A of the Customs and Central Excise Duties Drawback Rules, 1995 along with the applicable interest u/s 75A(2) of the Customs Act, 1962. The 1st respondent has also imposed a penalty of Rs.75,000/- on the petitioner u/s 117 of the Customs Act, 1962.

2. The petitioner has challenged the impugned order-in-original on the ground of violation of the principles of natural justice and on the ground that erroneously the petitioner has been directed to approach the CESTAT by paying the statutory pre-deposit amount of 7.5%. According to the petitioner, there is no necessity for the petitioner to pay the statutory pre-deposit amount stipulated under the impugned order for preferring the appeal before the CESTAT.

3. The petitioner was set *ex-parte* in the impugned proceedings, since the personal hearing notices sent to the petitioner were not responded to by the petitioner and the petitioner also did not participate in the impugned proceedings.

4. A counter affidavit has been filed by the respondents reiterating that, despite several opportunities having been granted to the petitioner to participate in the impugned proceedings, including the personal hearing notices issued by them, the petitioner failed to participate in the impugned proceedings and therefore, the *ex-parte* order-in-original came to be passed against the petitioner.

5. The learned counsel for the petitioner would submit that due to the fact that the personal hearing notices were sent at long gaps and due to machinery breakdown in the petitioner's factory, the personal hearing notices stated to have been sent by the respondents could not be responded to by the petitioner and participate in the impugned proceedings.

6. Admittedly, the impugned order-in-original is an *ex-parte* order. The reasons given by the petitioner for not participating in the impugned proceedings seems to be a genuine one. The personal hearing notices as reflected in the impugned order dated 30.03.2021, 04.03.2024 and 28.04.2024

have been issued to the petitioner with long gaps. The petitioner has also stated that the shipping bills disclosed in the impugned order-in-original pertain to exports made from the month of January, 2007 to November, 2013. Being old exports, the petitioner claims that they faced difficulty in collecting the documents to defend their case in the impugned proceedings. Being an *ex-parte* order, this Court, in the interest of justice, deems it fit to set aside the same after giving due consideration to the reasons given by the petitioner for not participating in the impugned proceedings and to remand the matter back to the very same respondent for fresh consideration on merits and in accordance with law. However, the petitioner will have to produce all relevant documents including BRCs for the subject shipping bills before the 1st respondent to defend their case. This Court is not expressing any opinion on the merits of the petitioner's defence.

7. Only on the ground that the impugned order-in-original is an *ex-parte* order and the personal hearing notices reflected in the impugned order have been issued with long gaps from the year 2021 to the year 2024, this Court sets aside the impugned order-in-original dated 21.05.2024 passed by the 1st respondent and is remanding the matter back to the 1st respondent for fresh consideration on merits and in accordance with law. The 1st respondent shall

pass final orders, within a period of four (4) months from the date of receipt of a copy of this order, by adhering to the principles of natural justice and by affording personal hearings to the petitioner and after giving due consideration to the objections of the petitioner.

8. With the aforesaid directions, this Writ Petition is disposed of. No Costs. Consequently, the connected miscellaneous petition is closed.

29.01.2026

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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To

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ABDUL QUDDHOSE. J.

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