IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-04-2026

CORAM

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

WP No. 13609 of 2026
and WMP Nos.14896 of 2026

Tokyo Chemical Industry (India) Pvt Ltd
Represented by its Authorised Signatory,
Dr. Ananya Chakrabarti
Office at Building 189,
MN Park Synergy Square 1,
Turkapally, Shamirpet,
Hyderabad 50007

..Petitioner(s)

Vs

1. Principal Chief Commissioner of Customs
   No 60, Rajaji Salai, Customs House,
   Chennai 600 001.

2. The Development commissioner
   Madras Export processing Zone,
   Special Economic Zone,
   GST Road, Tambaram,
   Chennai 600 045.

3. Deputy commissioner of customs
   Madras Export processing zone,
   Special Economic Zone,
   GST Road, Tambaram,
   Chennai 600 045.

..Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus, directing 3rd respondent, in a strict time bound manner, to reassess all 8042 Bills of Entry filed by the petitioner for the period from 06.10.2016 to 01.07.2022, by giving effect to reduction of 68% in valuation of goods covered therein as directed in the order No. 01/2025 dated 31.12.2025 and consequently direct 1st Respondent to refund excess customs duty paid by the petitioner amounting to INR 4,49,31,829 along with interest at the rate prescribed under section 27A of the Customs Act 1962, to the petitioner with cost from 06.10.2016 till the date of actual refund.

For Petitioner(s): Mr.Vijay Narayanan, Senior Counsel for
M/S.Amirtapoonkodi Dinakaran
Amudha Poorkodi Dinakaran
Chitrartha Gupta

For Respondent(s): Mr.J.Harikrishna,
Junior Standing Counsel

ORDER

The writ petition is filed praying for a Writ of Mandamus, directing third respondent to reassess 8042 Bills of Entry filed by the petitioner for the period from 06.10.2016 to 01.07.2022, within a stipulated period by giving effect to reduction of 68% in valuation of goods covered therein as directed in the order No. 01/2025 dated 31.12.2025 and consequently direct first Respondent to refund excess customs duty paid by the petitioner amounting to INR 4,49,31,829 along with interest at the rate prescribed under section 27A of the Customs Act 1962, to the petitioner with cost from 06.10.2016 till the date of actual refund.

2. Learned Senior Advocate appearing for the petitioner would submit

that petitioner is a private limited Company and subsidiary of Tokyo Chemical Industry Co. Ltd., Japan. The petitioner formerly had a special Economic Zone unit at MEPZ, Chennai, which was active between 2013 and 2022 and a Branch Office at Tambaram, Chennai which is situated in a Domestic Tariff Area, which was active from 2012 to 2018. Petitioner imported chemicals from its parent Company at Japan. As there were certain doubts regarding the valuation adopted by petitioner, at the instance of the office of the second respondent imports were examined by the Special Valuation Branch (SVB) Chennai. SVB, Chennai vide order in Original No. 22881/2013 dated 11.12.2013 found that relationship between the petitioner and the parent Company had not influenced price and approved declared value. Despite the same, imports until 05.10.2016 was valued by loading 68% on the declared value. Since 06.10.2016 the bills of entry which was filed, the value was increased by 90% to the declared value.

3. It is submitted by the petitioner that there are two streams of imports, one made for Special Economic Zone (SEZ) and other for non-SEZ. Value of imported goods declared are identical. While the respondent Authorities accepted the values for non-SEZ clearances, however doubted values declared for SEZ imports. It is submitted that after the goods have been imported into SEZ Unit, it is thereafter cleared into Domestic Tariff Area (DTA). In respect of imports to SEZ valuation was arrived by adding 90% to the declared value, in

other words, identical products imported are treated differentially, the non-SEZ stream is assessed at the declared value, while the SEZ stream is assessed by adding 90% to the declared value.

4. He would submit that the Development Commissioner MEPZ vide order dated 20.02.2020 had passed an order wherein it was found that the price for SEZ clearances was determined in terms of the provisions of the Customs Act and Rules. Aggrieved, petitioner preferred an Appeal before the Commissioner Appeals I, who confirmed the order of the Development Commissioner MEPZ.

5. Petitioner carried the matter in appeal before the Tribunal. Tribunal found that the unilateral enhancement of the assessable value without issuing any speaking order is in violation of the procedure, importantly also found that the duty payment made at enhanced rates since 2016 should be treated as payments made under protest and ought to be processed for refund claim that the duties paid are found to be in excess. The relevant portion is extracted hereunder:

> *"17. In view of the aforesaid discussion and appreciating the above case laws unilaterally enhancing the assessable value without issuing any speaking order*

though repeatedly asked for is in blatant violation of the procedures and absolutely bad in law. As such, the impugned order dated 22.06.2020 issue by the Lower Appellate Authority is devoid of any merits and is required to be set aside. We are of the considered view that the entire issue of enhancement of the values of clearances to the DTA Unit by the appellant is required to be looked into afresh, and so, ordered to be remanded to the Original Authority for issuing a well-reasoned Speaking Order for determination of the values in terms of Section 14 of the Customs Act, 1962 read with Customs Valuation Rules, 2007. No need to mention that there should be strict observance of principles of natural justice before passing such an order. The duty payments made at enhanced rates since 05.10.2016 are treated as payments made under protest and no limitation could be applicable while processing the refund-claim, if the duties paid are found to be in excess when compared to such determined transaction values of the imported goods of the appellant. As substantial time has elapsed, the remand proceedings may be completed within a period of three months from the date of communication of this order.

6. It is submitted that pursuant to the aforementioned orders of the CESTAT Tribunal, the impugned order was passed wherein the assessable value is reduced from 'declared value plus 90%' to 'declared value plus 22%'. In other words 68% of the loaded value (or) addition to declared value was

found to be in excess. Petitioner has repeatedly submitted representation seeking refund, however there is complete inaction in processing the refund application.

7. Mr.J.Harikrishnan, learned Standing Counsel appearing for the respondents would submit that the respondents will examine the representations made for refund vide emails dated 19.06.2025, 23.06.2025, 16.07.2025, 10.12.2025, 18.12.2025, and 29.12.2025. He would also submit that if formal application for refund be required, the petitioner will be so intimated, following which the petitioner shall submit a formal application in the prescribed manner.

8. The learned Senior Counsel would also seek liberty to file a formal application for refund. He would further submit should such an application, if any made, may be considered along with the emails sent earlier and appropriate orders passed within a specified time frame.

9. Considering the above request, it is open to the petitioner to file a formal application, if any such formal application is filed for refund, the same would be considered along with the emails sent earlier and the request for refund would be processed and final orders shall be passed by the respondents on merits and in accordance with law, within a period of eight weeks from the

date of receipt of a copy of this order.

10. The Writ Petition stands disposed of with the above directions. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

08-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

jv

To

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MOHAMMED SHAFFIQ, J.

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