IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-06-2026

CORAM

THE HON'BLE MR JUSTICE M.DHANDAPANI

W.P.No. 13180 of 2023
and
W.M.P.Nos.12924 and 12925 of 2023

M/s.Mersen India Private Limited,
No.5, Bommasandra Industrial Area,
Anekal Taluk, Bangalore,
Karnataka-560099,
Rep.by its Manager Finance [Accounts]
Martin Amalraj

..Petitioner

Vs

1. The Joint Commissioner of Customs (GR-3),
Import Commissionerate,
O/o.Commissioner of Customs,
Chennai-II (Import), Custom House,
No.60, Rajaji Salai,
Chennai-600 001.

2. The Joint Commissioner of Customs (Audit),
Custom House, 60, Rajaji Salai,
Chennai-600 001.

..Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, seeking to issue a Writ of Certiorari, calling for the records pertaining to the impugned Order-in-Original No.101535/2023 dated 29.03.2023 passed by the first respondent in F.No.S.Misc/68/2021-Gr-3 and quash the same.

For Petitioner(s): Mr. Hari Radhakrishnan
For Respondent(s): Mr.S.R.Sundar

ORDER

This Writ Petition is filed challenging the impugned Order-in-Original No.101535/2023 dated 29.03.2023 passed by the first respondent in F.No.S.Misc/68/2021-Gr-3.

2. The learned counsel appearing for the petitioner submitted that the second respondent issued a Demand cum Show Cause Notice dated 21.12.2021 under Section 28(4) of the Customs Act, 1962 stating that the petitioner had wilfully claimed the IGST exemption for the goods which are not covered under Schedule III of IGST Notification No.01/2017, whereas, the subject goods are specifically covered under Schedule IV of the IGST Notification 01/2017 vide SI.Nos.162, 161 and 123 where IGST payable is @ 28%. Thus, the petitioner was called upon to pay the differential duty of Rs.68,302/-. In the notice, it has also been stated that the petitioner had knowingly misclassified titanium graphite blocks imported by them under CTH 69029020 and 69022020 as against CTH 38011000, due to which, the petitioner was liable to pay the differential duty of Rs.23,43,904/- along with interest. There was a further proposal in the notice to confiscate the goods under Section 111 of the Customs Act, 1962 and to impose penalty. The petitioner had sent reply to the demand cum show cause notice vide letter dated 08.01.2021 and also appeared before

the first respondent on 16.02.2023. Without rightly appreciating the petitioner's submissions, the first respondent has passed the impugned Order-in-Original No.101535/2023 dated 29.03.2023.

3. Learned counsel for the petitioner submitted that similar issue with regard to delay in passing the orders on the show cause notice was the subject matter of consideration before this Court and this Court, by placing reliance on the larger issues arose out of the judgment of ***Indian Micro Fertilizers Manufacturers Association and another, Vs. Union of India*** and other connected matters, which was carried to the Hon'ble Supreme Court by the Department, had passed an order in W.P.Nos.27427 of 2022 etc., by issuing certain directions.

4. It is further submitted that the Hon'ble Apex Court in SLP.(civil) No. 5392 of 2025 has issued a direction to the High Courts and the Tribunal not to proceed with the matters involving the same issues of classification of goods, pending disposal of the SLP. The relevant portion of the order is extracted hereunder:-

> *9. Since we are looking into the larger issues involved in this matter, we may only say that if any matter comes up for hearing before the Tribunal or any of the High Courts on the subject in question, the hearing may be deferred till we take an appropriate call in the matter.*

5. The learned counsel appearing for the respondents did not dispute the said stand.

6. Heard both sides and perused the materials available on record.

7. In view of the submission made by both sides and the directions issued by the Hon'ble Apex Court in SLP.(civil) No. 5392 of 2025, particularly, para 9 thereof, this Court passes the following orders:

> *''a. This Court directs the respondents to keep all the proceedings pursuant to the impugned order-in-original in abeyance, till the disposal of the above said SLP by the Hon'ble Apex Court;*
>
> *b. The respondents shall not take any coercive steps for recovery of duty, interest or penalty or confiscation of the goods pursuant to the impugned order-in-original till the disposal of the SLP and for a period of four weeks thereafter to enable parties to seek further orders;*
>
> *c. It is made clear that this Court has not expressed any opinion on the merits of the classification dispute. All contentions are left open to be decided after the outcome of the SLP; and*

d. Needless to say that the order that would be passed by the Hon'ble Supreme Court would be binding on the parties and any issue that is left open for the parties are at liberty to work out their remedy in accordance with law.

e. The interim order dated 27.04.2023 already granted by this Court shall continue till the disposal of the SLP before the Hon'ble Supreme Court.

f. Any appeal that may be filed by the petitioner after the order is passed by the Hon'ble Apex Court, the period during which this writ petition was pending before this Court shall be excluded for the purpose of computing the period of limitation."

8. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

16-06-2026

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

ssb

To

1. The Joint Commissioner of Customs (GR-3),
   Import Commissionerate,
   O/o.Commissioner of Customs,
   Chennai-II (Import), Custom House,
   No.60, Rajaji Salai,
   Chennai-600 001.

2. The Joint Commissioner of Customs (Audit),
   Custom House, 60, Rajaji Salai,
   Chennai-600 001.

M.DHANDAPANI J.

ssb

W.P.No.13180 of 2023

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