IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-03-2026

CORAM

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.14847 of 2023

M/s.Ashley Alteams India Ltd.,
Rep. by its Chief Financial Officer,
Mr.S.Ravisankar,
No.8, Sipcot Industrial Park,
Chellaperumbalimedu Village,
Sozhavaram Post, Akkur via Cheyyar Taluk,
Tiruvannamalai District, Tiruvannamalai-631 701.

..Petitioner(s)

Vs

1. The Assistant Commissioner (CHN IV)
   IGST Refund Cell, Chennai Custom House,
   60, Rajaji Salai, Chennai-01.

2. The Dy. Commissioner (CHN IV)
   IGST Refund Cell, Chennai Custom House,
   60, Rajaji Salai, Chennai-01.

3. The Chief Commissioner,
   IGST Refund Cell, Chennai Custom House,
   60, Rajaji Salai, Chennai-01.

..Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus directing the respondents to call for the records relating to the orders issued by the 1st respondent IGST Refund Cell dated 13.07.2021 quash the same and other refund the IGST amount of Rs.8,89,711/- (Rupees Eight Lakhs Eighty Nine Thousand Seven Hundred and Eleven only) along with interest after adjustment of the Duty Drawback claim made by the petitioner.

For Petitioner(s): Ms.Jayanthi Sekar

For Respondent(s): Mr.Rajnish Pathiyil
Senior Panel Counsel

ORDER

The present writ petition is filed praying for a writ of certiorarified Mandamus challenging the impugned proceeding dated 13.07.2021 on the premise that petitioner's request for duty drawback has been rejected *inter-alia* by placing reliance upon Circular dated 09.10.2018 in Circular No.37 of 2018. The relevant portions of the impugned order reads as under:

> *"Furthermore, CBIC vide Circular No:37/2018 – Cus dated 09.10.2018, has clarified that by declaring and availing higher rate of drawback at the time of submission of Shipping bills under the provisions of Drawback Rules, the exporters consciously relinquished their claim of IGST refund."*

2. It is submitted by the learned counsel for petitioner that the above Circular has been found by the Gujarat High Court in the case of ***Amit Cotton Industries vs. Principal Commissioner of Customs*** reported in ***(2019) 75 GST 33 (Gujarat),*** to be in conflict with Rule 96 of the CGST Rules, which will govern the petitioner's claim for refund.

3. The above judgment of the Gujarat High Court has since been followed by the Division Bench of this Court in W.A.(MD).No.1559 of 2021 wherein it

was held as under:

3.The learned Standing Counsel relied on Circular No.37 / 2018 - Customs dated 09.10.2018 which states that if duty drawback is claimed, refund of IGST amount cannot be sought. Paragraph Nos.2.4, 2.5 and 3 of the said circular read as follows:

> *"2.4 The declarations required in terms of above Notes and Conditions and provisions of the Drawback Rules are made electronically in the ED! System. When composite drawback rate was claimed (by declaring suffix A or C with Drawback serial number), exporter was required to tick DBK002 and DBK003 declarations in the shipping bills. In fact, for period 1.7.2017 to 26.7.2017, a manual declaration was also required to be given as the changes made on 26.7.2017 were made applicable for exports made from 1.7.2017 onwards. 2.5 By declaring drawback serial number suffixed with A or C and by making above stated declarations, the exporters consciously relinquished their IGSTIITC claims.*
>
> *3. It has been noted that exporters had availed the option to take drawback at higher rate in place of IGST refund out of their own volition. Considering the fact that exporters have made aforesaid declaration while claiming the higher rate of drawback, it has been decided that it would not be justified allowing exporters to avail lOST refund after initially claiming the benefit of higher drawback. There is no justification for re-opening the issue at this stage."*

The Hon'ble Division Bench of Gujarat High Court in the decision reported in 2019 (7) TMI 472 (M/s.Amit Cotton Industries Through Partner, Veljibhai Virjibhai Ranipa Vs Principal Commissioner of Customs) had categorically held that the aforesaid circular cannot prevail over Rule 96. The Hon'ble Division Bench observed that the circular will not save the situation for the Department. This decision was followed by the Madras High Court in the decision reported in 2020 (1) TMI 90

(M/s.Precot Meridian Limited Vs The Commissioner of Customs, The Assistant Commissioner of Customs). We are also informed that several other High Courts have also taken the very same view. Since the learned single Judge granted relief to the writ petitioner only by following the existing legal position, interference with the said order is not warranted."

4. The impugned order has been made by placing reliance upon the Circular which has been found to be in conflict with the Rule which is impermissible. This Court is inclined to set-aside the impugned order directing the respondents to pass orders afresh keeping in view the orders of this Court as well as the order of the Gujarat High Court and the relevant provisions/ Rules after affording a reasonable opportunity of hearing to the petitioner. The above exercise shall be carried out by the respondents within a period of four weeks from the date of receipt of a copy of this order.

5. Accordingly, the impugned order dated 13.07.2021 is set-aside and the writ petition stands disposed of. No costs.

24-03-2026

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

To:

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MOHAMMED SHAFFIQ J.

MKA

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