IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-04-2026

CORAM

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

WP No.13834 of 2026
and
WMP No.15085 of 2026

M/s.GM Fabrics,
Represented by its Proprietor,
Mr.Gaffar Mulk,
No.129, Cauvery Road,
Karungalpalayam Erode,
Tamil Nadu-638003.

..Petitioner

Vs

1. The Principal Commissioner of Customs,
(Chennai -III)(Preventive),
Custom House, No.60, Rajaji Salai,
Chennai 600001.

2. The Intelligence Officer, DRI (Hqrs.),
Directorate of Revenue Intelligence,
7th Floor, Drum Shaped Building,
I.P.Bhawan, I.P.Estate,
New Delhi-110002.

3. The Special Officer, FTWZ,
M/s.NDR Infrastructure Private Limited,
Nandiambakkam, Ponneri Taluk,
Chennai 600 120.

4. The Additional Commissioner of Customs
(NDR-FTWZ),
O/o.The Principal Commissioner of Customs,
Preventive Commissionerate,
Custom House, No.60,
Rajaji Salai, Chennai 600 001.

..Respondents

PRAYER**:** Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, directing respondents herein to permit petitioner to Re-Export goods viz.,23,518.00 KGS., of Cotton Knitted Fabrics imported vide Bill of Entry No.7753065, dated 13.01.2025, and Bill of Lading No.COAU7255730290.

For Petitioner : Mr.A.K.Jayaraj

For Respondents: Mr.K.S.Ramasamy,
Senior Standing Counsel
for R1, R3 and R4

Mr.S.T.Bharath Gowtham
Senior Standing Counsel for R2

ORDER

This Writ Petition has been filed seeking a direction to respondent to permit the petitioner to immediately export the goods, imported vide Z-Type Bill of Entry No.7753065 dated 13.01.2025.

2. Learned counsel for petitioner submitted that petitioner had imported fabrics, which have been lying with first respondent. It is submitted that samples of fabrics imported have already been tested and verified by the Department as well as the Laboratory. Petitioner received a seizure memo on 26.03.2025 issued by the second respondent, alleging that the petitioner had misclassified the goods imported and resultantly, it did not satisfy the condition relating to the minimum import price applicable to the import of fabrics. The goods imported were allegedly found to be in violation of MIP condition and were seized in exercise of the powers under Section 110 of the Customs Act, 1962 (hereinafter referred to as 'the Act').

3. It is the case of the petitioner that the allegations of misclassification and resultant undervaluation are based solely on the CRCL test report, and that there was no corroborative material or opportunity of being heard. A summon was issued under Section 108 of the Act, calling upon the petitioner to appear before the respondents. The CRCL test report was intimated to the petitioner. Pursuant thereto, petitioner appeared and participated in the investigation and submitted necessary documents, including supplier invoices, product specifications and import correspondence. Despite which, the seized fabrics continue to remain under seizure and in the possession of the first respondent.

4. The learned counsel would further submit that the respondents, in not releasing the goods in question, have acted contrary to the mandate under Section 110 of the Act. The learned counsel for the petitioner would submit that the petitioner had not made any payment to its overseas suppliers – M/s.SC Sourcing Co., Limited (Hongkong), Hongkong.

5. In such circumstances, the petitioner requested the first respondent to permit re-export of the seized goods to the designated foreign buyers in terms of Section 69 of the Act, while also stating that continued retention of the goods, pursuant to the seizure, would only result in diminish its value. It is also submitted by the learned counsel for the petitioner that the fabrics which have been imported are design-specific and season-specific and their continued retention without it being used, would result in the fabric being rendered useless. He would also bring to the notice of the Court that the seized fabrics were lying in the Special Economic Zone (SEZ) and not cleared for home consumption. It is also submitted that at that stage, the question of misdeclaration would possibly not arise.

6. This Court does not propose to go into the above question. But, keeping in view the facts of the present case, this Court is inclined to direct the respondents to permit the petitioner to re-export the goods, keeping in view the submissions which were not in dispute, but these goods have been lying with the respondents for more than a year and samples have also been drawn and no useful purpose would be served by continued seizure of the goods.

7. As a matter of fact, while the learned counsels for the respondents 1 to 3 do not have any serious objection to permitting re-export, however, while the petitioner would submit, placing reliance upon the order of the Division Bench of this Court in the case of ***The Assistant Commissioner of Customs-Imports, Tuticorin and others vs. Mahadev Enterprises*** made in W.A(MD).No.556 of 2022 dated 23.06.2022, that the re-export may be permitted subject to the condition that he would execute a bond to cover the value of the goods pending adjudication.

8. The learned counsels for the respondents 1 to 3, on other hand, would submit that in addition to executing the bond, the petitioner shall also furnish a Bank Guarantee.

9. After submitting for a brief while, the petitioner offered to furnish a bank guarantee in addition to executing a bond equivalent to 5% of the re-determined value, which was also agreed by the learned counsels for the respondents.

10. In that view of the matter, this Writ Petition stands disposed of with a direction to the respondents to permit the petitioner to re-export the goods imported vide Z-Type Bills of Entry No.7753065 dated 13.01.2025. subject to the following condition:

(i) The petitioner shall execute a bond for the total value of the differential duty payable to them;

(ii) The petitioner shall furnish a bank guarantee equivalent to 5% of the re-determined value; and

(iii) On the petitioner fulfilling the above two conditions, they shall be permitted to re-export the goods within a period of 12 days from the date of compliance of the above conditions as imposed by this Court.

No Costs.

09-04-2026

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

MRN

To

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   Custom House, No.60,
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   Chennai 600001.

2. The Intelligence Officer, DRI (Hqrs),
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MOHAMMED SHAFFIQ, J.

MRN

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