IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2026

CORAM

THE HON'BLE DR. JUSTICE G. JAYACHANDRAN

AND

THE HON'BLE MR.JUSTICE SHAMIM AHMED

WA No. 284 of 2016
and
CMP No.4617 of 2016

The Senior Intelligence Officer,
Directorate of Revenue Intelligence,
Ministry of Finance, 1103, Trichy Road,
Coimbatore – 18.

..Appellant(s)

Vs.

1. M/s.Textech Indo (India) Private Ltd,
   Rep.by Krishnakumar Manager,
   No.2B, A Block, Pioneer Apartments,
   1075, Avinashi Road,
   Coimbatore – 641 018.

2. M/s.State Bank of India,
   Stressed Assets Management Branch,
   1112, Raja Plaza Avinashi Road,
   Coimbatore – 37.

..Respondent(s)

Prayer: Writ appeal filed under Clause 15 of Letters Patent to set aside the order passed by the learned Justice R.Mahadevan in W.P.No.30446 of 2015 dated 08.10.2015 and corrected on 29.10.2015.

For Appellant(s):	Ms.S.Aswini
For Respondent(s):	Ms.M.Mrithula Sri for M/s.Genicon & Associates for R1 Mr.M.L.Ganesan for R2

JUDGMENT

(Judgment of the Court was delivered by Dr.G.Jayachandran J.)

This intra-Court appeal is filed by the Senior Intelligence Officer, Directorate of Revenue Intelligence, against the order passed by the learned single Judge in W.P.No.30446 of 2015, filed by the 1st respondent herein namely, M/s.Textech Indo (India) Private Limited, Coimbatore.

2. The 1st respondent had filed the writ petition seeking a writ of certiorarified mandamus, calling for the records relating to the Seizure Memorandum issued on 22.09.2015 by the appellant herein and to quash the same to the extent of the 1st respondent herein, who was the auction purchaser of the machinery in proceedings initiated under the SARFAESI Act. The appellant claimed a lien over the property on the ground that the said machineries were imported from abroad after availing EXIM concession on import duty. Since there was a gross violation of the Notification, the company under liquidation has a statutory liability of Rs.14.64 crores with interest and, therefore, the appellant has the right to issue the Seizure Memorandum impugned in the writ petition.

3. The learned single Judge, after considering the rival submissions and particularly the amendment brought into the Customs Act by introducing Section 142 A, quashed the impugned order holding that the financial creditor

will have priority over the assets of the debtor and more-so Section 142 A of the Customs Act has categorically considered the said priority.

4. The learned Counsel appearing for the appellant submitted that the provisions of the SARFAESI Act must gives priority to statutory debts and the EXIM policy and concession Notification are mandatory provisions creating a lien over the plant and machinery imported by availing a concessional rate of custom duty.

5. Per contra, the learned Counsel appearing for the 2nd respondent Bank submitted that the issue is no more *res integra* in view of the Judgment of the Hon'ble Supreme Court of India in ***Industrial Development Bank of India Vs. Superintendent of Central excise and Customs and Others*** reported in ***(2023) INSC 746,*** wherein the Hon'ble Supreme Court, after considering the introduction of Section 142 A in the Customs Act (which came into effect from 08.04.2011) and Section 529 A of the Companies Act, held that statutory debt cannot have a preferential right over the rights of financial creditors. In yet another Judgment rendered by the Hon'ble Supreme Court of India in ***Punjab National Bank vs. Union of India & Ors.,*** reported in ***(2022) SCC Online SC 227,*** the Hon'ble Supreme Court considered a similar issue and held as below:

> *"47. To conclude, the Commissioner of Customs and Central Excise could not have invoked the powers under Rule 173Q(2) of the*

Central Excise Rules, 1944 on 26.03.2007 and 29.03.2007 for confiscation of land, buildings etc., when on such date, the said Rule 173Q(2) was not in the Statute books, having been omitted by a notification dated 12.05.2000. Secondly, the dues of the secured creditor, ie. the Appellant-bank will have priority over the dues of the Central Excise Department, as even after insertion of Section 11E in the Central Excise Act, 1944 w.e.f 08.04.2011, and the provisions contained in the SARFAESI Act, 2002 will have an overriding effect on the provisions of the Central Excise Act of 1944."

6. Before concluding, we wish to record that Section 142 A of the Customs Act, being the game changer, the DRI cannot have any preferential treatment over the assessment of tax due payable by the default importer.

7. As a result, the Writ Appeal stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

(G.J.,J.) **(S.S.A.,J.)**

25-03-2026

(1/2)

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

VEDA

DR.G.JAYACHANDRAN, J.
AND
SHAMIM AHMED, J.

VEDA

To
1.State Bank of India,
Stressed Assets Management Branch,
1112, Raja Palaza Avinashi Road,
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2.The Senior Intelligence Officer,
Directorate of Revenue Intelligence,
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