IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-04-2026

CORAM

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.16348 of 2026
and
W.M.P. No.17567 of 2026

M/s.Thermo Cables Limited,
(A Company registered under the Companies Act, 1956)
Rep. by its Sr.General Manager-Purchase-Mr.P.V.Ramkumar,
Regd. Office, 28, Nagarjuna Hills, Punjagutta,
Hyderabad-500 082, Telangana.

..Petitioner(s)

Vs

1. Government of India,
   The Ministry of Finance,
   Rep. by the Secretary (Revenue)-Indirect Taxes and Customs, North Block, New Delhi-110 001.

2. The Principal Commissioner-Customs
   O/o.the Principal Commissioner of Customs,
   Chennai-III, Preventive Commissionerate,
   Customs House, No.60, Rajaji Salai,
   Chennai-600 001.

3. The Addl. Commissioner- Customs
   Special Intelligence and Investigation Branch,
   O/o.the Principal Commissioner of Customs,
   Chennai-III, Preventive Commissionerate,
   Customs House, No.60, Rajaji Salai,
   Chennai-600 001.

4. The Asst. Commissioner of Customs-Import
   O/o.the Commissioner of Customs, Chennai -II (Import), Customs House, No.60, Rajaji Salai,
   Chennai-600 001.

..Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus declaring 3rd Respondents impugned Provisional Release Order inF.No.GEN/ INV/ DR/ 472/ 2025-SIIB dated 13.02.2026 its Corollary Provisional Assessment Orderin F.No.CUS/APR/PROV/41/2026-GR5/ dated 27.02.2026 as highly illegal, arbitrary, unreasonable unjust, discriminatory and quash the same being violative of provisions of the Customs Act, Rules, principles of natural justice, Articles 14 and 19 of the Constitution of India besides being opposed to all canons of equity, justice and Consequently direct the respondents to clear the goods under Bill of Entry No.6054823 dated 02.12.2025 under ITCHS Code 84794000.

For Petitioner(s):	Mr.K.Rajendran
For Respondent(s):	Mr.S.M.Deenadayalan Senior Standing Counsel

ORDER

The present writ petition is filed challenging the impugned order whereby considering the petitioner's request for provisional release of the seized goods covered under Bill of Entry No.6054823 dated 02.12.2025 filed by the petitioner viz.,

a) Bond for full value of goods

b) Bank guarantee covering differential duty amount along with 35% of adjudication liability which according to the petitioner works out to around Rs.14.90 crores. It is against the above impugned order that the present writ petition has been filed.

2. **Brief facts:**

2.1. Petitioner would submit that they were granted import license under EPCG Scheme (Duty Free Import) for import of capital goods under ITCHS (Indian Tariff Code-Harmonised System) Code : 84794000. Petitioner imported Tube Mill Laser Welding Machine Line-1 Set from Hefei Mantai Machinery Technology Co. Ltd., China. The overseas supplier classified the product as falling under ITCHS Code:84794000. The shipment of the said machinery was covered by an invoice, certificate of origin and bill of ladding. It is submitted that all these documents showed that import was covered under HS Code 84794000. Petitioner filed its Bill of Entry No.6054823 on 02.12.2025 classifying the product as falling under ITCHS Code: 84794000, showing duty as NIL in terms of EPCG Scheme. On 02.02.2026, it was submitted that the 3rd respondent seized the machinery on the premise that the imported machinery was not classifiable under CTH 84794000 instead it would fall under CTH 85158090, thus liable to Anti-Dumping Duty in terms of Notification No.15/2023-Cus.(ADD) dated 22.12.2023. It was further submitted that these are not goods which are covered under the EPCG license.

2.2. Against this background, petitioner filed provisional release of the consignment while offering a bank guarantee of US$10500 as security, which according to the petitioner represented the disputed portion relatable to the laser-assisted sealing component. This, the petitioner would submit that he was compelled inasmuch as the continued detention of the imported machinery has an adverse impact on production. Learned counsel for petitioner would also submit that petitioner has been in this business since 1990 and there has not been any imports in the past which has been the subject matter of litigation.

3. The challenge in the present writ petition is to the conditions imposed in the impugned order for provisional release viz.,

a) Bond for full value of goods

b) Bank guarantee covering differential duty amount along with 35% of adjudication liability which according to the petitioner works out to around Rs.14.90 crores.

3.1. According to the petitioner the above conditions are onerous, he would place reliance on the judgment of the Supreme Court in ***Titan Medical Systems (P) Ltd., vs. Collector of Customs, New Delhi*** reported in ***(2003) 9 SCC 133*** and the decision of the Division Bench of this Court in ***M/s.Adyar Gate Hotel Ltd., and another vs. The Commissioner of Customs and others*** in C.M.A.Nos.71 & 131 of 2025 dated 03.06.2025 wherein the Supreme Court and the Division Bench of this Court following the Supreme Court had held that once the classification is adopted in respect of goods by DGFT, it may not be permissible for the Customs authory to take a different view. Learned counsel for petitioner would also submit that seizure and continued detention for more than 5 months is clearly arbitrary.

4. To the contrary, learned counsel for respondents would submit that while there may not be any dispute over the proposition that the classification adopted by DGFT cannot be discarded / disregarded by the Customs Authority as such, however, the classification of the imported machinery in question is too pre-mature for this Court to decide viz., as to whether it falls under CTH 84794000 or 85158090. He would thus submit that interest of the Revenue ought to be protected by this Court.

5. Keeping in view the submissions made by either side, it was suggested that the petitioner may execute a bond and also furnish a solvency certificate issued by a Bank which must be adequate to protect the interest of the revenue.

6. At this stage, learned counsel for respondent would submit that solvency certificate ought to be from a Bank.

7. Learned counsel for petitioner agreed to the above suggestion made by this Court that the petitioner would execute a bond of Rs.14.90 crores as well furnish a solvency certificate issued by a Bank for the said amount.

8. In that view of the matter, the writ petition stands disposed of modifying the impugned order passed by the respondents for grant of provisional release of goods with the following conditions:

a) The petitioner is directed to execute a bond for a sum of Rs.14.90 crores and

b) The petitioner shall furnish a solvency certificate issued by a Bank for a sum of Rs.14.90 crores. On compliance of the aforesaid conditions, the goods shall be released by the respondents forthwith. No costs. Consequently, the connected miscellaneous petition is closed.

27-04-2026

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

To:

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and Customs, The Ministry of Finance,
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O/o.the Principal Commissioner of Customs,
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4.The Asst. Commissioner of Customs-Import
O/o.the Commissioner of Customs,
Chennai -II (Import), Customs House,
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MOHAMMED SHAFFIQ J.

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