IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-06-2026

CORAM

THE HON'BLE MR JUSTICE M.DHANDAPANI

W.P.No.19749 of 2026

M/s.Jiju Silk Mills, Rep. by its
Priopprietrix Smt.Sangeeta Mehta,
No.71, Ashira Avenue, Ground Floor,
Jumma Masjid Road, Bangalore-560 002

...Petitioner

Vs

1. The Commissioner Of Customs
Import Commissionerate,
Custom House, No.60 Rajaji Salai,
Chennai-600 001

2. The Deputy Commissioner of Customs
(Group-3), Import Commissionerate,
O/o. The Commissioner of Customs, Import
Commissionerate, Custom House, No.60
Rajaji Salai, Chennai-600 001

3. The Deputy Commissioner of Customs
(Group-4), Import Commissionerate,
O/o. The Commissioner of Customs, Import
Commissionerate, Custom House, No.60
Rajaji Salai, Chennai-600 001

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus to direct the respondents to re-assess the One Hundred and Twelve (112) Bills of Entry mentioned in the petitioner's letter 05.12.2018 by extending the benefit of Notification No.30/2004-CE dated 09.7.2004 and order consequential refund along with applicable interest.

For Petitioner: Mr.Hari Radhakrishnan
For Respondents: Ms.Anu Ganesan, JPC

ORDER

This is a petition filed by the petitioner seeking a direction to the respondents to reassess the 112 Bills of Entry mentioned in the petitioner's letter dated 05.12.2018 by extending the benefit of Notification No. 30/2004-CE dated 09.7.2004 and to order consequential refund along with applicable interest.

2. Heard the learned counsel for the petitioner and the learned Junior Panel Counsel accepting notice for the respondents.

3. The case of the petitioner is as follows:

(i) The petitioner concern is an importer of silk. It imported 'silk fabric and spun silk yarns' vide 112 Bills of Entry during the period from 2009-10 to 2016-17. It claimed the benefit of

Notification No.30/2004-CE dated 09.7.2004 with respect to additional customs duty. However, the benefit was denied by the Proper Officer on the ground that it could be claimed only if no credit of duty on inputs had been taken under the provisions of the CENVAT Credit Rules and that since this condition was not fulfilled, the petitioner was not entitled to avail the benefit of the said Notification. Further, the petitioner was forced to pay the countervailing duty.

(ii) According to the petitioner, the condition of non availability of CENVAT credit under the said Notification was inherently not applicable to importers since it did not avail CENVAT credit on inputs during the course of manufacture. The condition was designed for domestic manufacturers and its application to imports was misconceived. This position was categorically affirmed by the Hon'ble Apex Court.

(iii) Though the petitioner made several requests to the Department to reassess the Bills of Entry in order to extend the benefit of the said Notification, nothing was forthcoming. Therefore, the petitioner was constrained to file a formal refund application for the refund of countervailing duty on 31.7.2023. However, vide

Order-in-Original No.109894 dated 18.10.2024, it was rejected by the Deputy Commissioner of Customs (Refunds), Chennai II Commissionerate primarily on the ground that the Bills of Entry were assessed without availing the benefit of the said Notification and that no appeal had been filed against such assessment orders.

(iv) According to the petitioner, the rejection of refund claim did not preclude the petitioner from seeking reassessment under the Writ Jurisdiction since the assessment orders were never finalised with rejection of the benefit of the said Notification. As the Hon'ble Supreme Court settled the law on the point, the respondents are bound to extend the benefit of the said Notification in spite of the procedural objections.

(v) Pursuant to the said rejection order dated 18.10.2024, the petitioner once again approached the respondents. But, there was no proper response from the respondents. Subsequently, the petitioner also sent a reminder dated 06.10.2025 seeking reassessment of the Bills of Entry. Though the petitioner filed several representations in 2018 and 2019, the refund application in 2023 and the reminder in 2025, there was no proper response. Hence the writ petition.

4. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record.

5. In the considered view of this Court, a similar request is made to respondents 2 and 3 by way of the latest representation dated 06.10.2025 and it would suffice to direct the second respondent to consider the same within a time frame.

6. Accordingly, the writ petition is disposed of with a direction to the second respondent to consider the said representation of the petitioner dated 06.10.2025 for reassessment of the Bills of Entry for the refund of countervailing duty amount, on merits and pass appropriate orders thereon in accordance with within a period of four weeks from the date of receipt of a copy of this order. No costs.

04-06-2026

rli/rs

M.DHANDAPANI,J

RLI

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

To

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