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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-03-2026

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THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

**WP No. 23474 of 2023
and WMP Nos.22989 and 22990 of 2023**

1. M/s.Fuorceess Diamonds Pvt Ltd.,
Rep. By Its Managing Director,
Shri Manmohan, Golden Complex Old No 128,
New No.220, Nsc Bose Road, Sowcarpet,
Chennai-600 079.
2. Shri Manmohan
Managing Director, M/s.Forceess Diamonds
Pvt Ltd., Heera Panna Apartment, 5th Floor,
128 GN Chetty Road, Chennai-600 017.

..Petitioner(s)

Vs

1. The Commissioner Of Customs (appeals-i),
O/o.The Commissioner Of Customs
(Appeals-1), 3rd Floor, Customs House,
Gst Road, Meenambakkam, Chennai-16.
2. The Joint Commissioner Of Customs (Air
Gargo), O/o.The Principal Commissioner Of
Customs, Chennai VII Commissioenrate,
New Custom House, Meenambakkam,
Chennai-16.

..Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorari, calling for the records of the 1st respondent culminating in the impugned order dated 28.04.2023 in order -in-Original AIR CARGO. C. Cus.I No.98/2023 and quash the same as perverse, bad in law, unreasonable, arbitrary, lacking merit and violative of the principles of Natural



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For Petitioner(s): Mr.Akhil Bhansali

For Respondent(s): MR. Nalinidhar. T
Junior Standing Counsel

ORDER

The present Writ Petition is filed challenging the order of the Commissioner in Appeal dated 28.04.2023, *inter alia* on the ground of violation of principles of natural justice. While several grounds were raised, for the purpose of disposing of the present Writ Petition, this Court proposes to take only the ground of violation of principles of natural justice. Specifically, it has been submitted on the premise that during the course of hearing of the Appeal which was on video conferencing, the petitioners were never informed of the presence of the Appraiser representing the Department.

2. It was also submitted that during the course of hearing, there were certain discussions with the Adjudicating Authority was apparently having with the third party, which the petitioners believed was an assistant. However, the order records that an Appraiser had appeared in person on behalf of the Department. Learned counsel for the petitioners submitted that petitioners



neither was informed of the presence of the Appraiser nor was able to hear the submissions made by the Appraiser. Therefore, he would submit that the entire hearing was nothing but a sham and suffers from a violation of principles of natural justice.

3. To a pointed question whether these aspects were stated in the affidavit, learned counsel for petitioners would submit that they were stated so at paragraph 2, the relevant portion of which is extracted hereunder:

“2. ...The 1st respondent during the virtual hearing did not inform about the presence of the representative of the 2nd respondent in his room. It is relevant to point out that the presence of the representative of the 2nd respondent was only noted vide the proceedings recording the hearing. Surprisingly every time the representative of the 2nd respondent was arguing, the hearing was put on mute and therefore petitioners counsel was not able to hear the submissions. I submit that the petitioners counsel was under the impression that the person sitting behind the 1st respondent was his assistant and not the representative of the 2nd respondent.”



4. Though a counter has been filed, this Court do not find that the above averments have been controverted. To a pointed question to the learned counsel for the respondent regarding whether there were any averments wherein the above aspect has been controverted, he was not able to point any. On the other hand, the learned counsel for petitioners would submit that para 8 of the counter states as follows:

“8. Reply to Averments in the Affidavit:

8.1. With regard to averments in Para 1 to 6, it is respectfully submitted that no comments in particular as these are pertaining to details about the petitioner and the respondents and also some of them are matter of facts available on record.”

5. This Court find that the above averment remains uncontroverted and the averment clearly indicates that the hearing was conducted in an arbitrary manner in violation of principles of natural justice.

6. In that view of the matter, the impugned order is set aside and the matter is remanded back to the Appellate Authority for fresh consideration of the Appeal and the same shall be considered and appropriate orders shall be



passed by the Authority on merits and in accordance with law, after affording reasonable opportunity of hearing to the petitioners and any other interested parties, as expeditiously as possible within a period of four weeks from the date of receipt of a copy of this order.

7. The Writ Petition is disposed of with the above observations. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

24-03-2026

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

jv

To

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MOHAMMED SHAFFIQ, J.

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