IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-04-2026

CORAM

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.32475 of 2022

M/s.Perfect Trading Company
Represented by its Proprietor,
Shri.Naresh Kumar, Shop No.3,
WZ-32, Asaltpur, Jankapuri, New Delhi - 110 058.

..Petitioner(s)

Vs

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

2. The Deputy Commissioner of Customs (SIIB),
   Chennai-III, Commissionerate, Custom House,
   No.60, Rajaji Salai, Chennai - 600 001.

3. The Additional Commissioner of Customs,
   SEZ-ACC, O/o.The Principal Commissioner of
   Customs, New Custom HOuse,
   Meenambakkam, Chennai - 600 027.

4. M/s.Timescan Logistics (India) Pvt.Ltd.,
   Survey No.434/b(Part), JMatadee FTWZ SEZ,
   Mannur Village, Kancheepuram - 602 105.

5. Hyundai Merchant Marine India Pvt ltd.,
   Ega Trade Centre, 3rd Floor,
   Door No.318(Old No.809),
   Poonamalle High Road, Kilpauk,
   Chennai - 600 010.
   (*WP IS DISMISSED AS NOT PRESSED WITH RESPECT TO R5 VIDE ORDER DATED 03.03.2026 MADE IN WP.32470/2022 BY MSQJ*)

..Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records pertaining to the impugned letter dated 02.11.2022 in F.No.Misc.80/2022-SIIB issued by the 2nd respondent and quash the same, and direct the 2nd respondent to issue waiver certificate for waiver of demurrage and detention charges till the goods are re-exported.

For Petitioner(s): Mr.G.Derrick Sam

For Respondent(s): Mr.Rajendran Raghavan
Senior Standing Counsel (for R1 to R3)

Mr.A.Mohammed Ismail (for R4)

Mr.S.Vasudevan (for R5)

ORDER

The present writ petition is filed challenging the impugned letter dated 02.11.2022, whereby petitioner's request for waiver of demurrages until the goods are made available for clearance was rejected.

2. It is submitted by the learned counsel for petitioner that the impugned orders are challenged on the ground that the order of rejection of petitioner's request for waiver of demurrages does not assign any reasons, therefore it may not be necessary to get into the facts in great detail except to state the following:

a. Petitioner filed an SEZ Bill of Entry 2005430 for clearance of goods i.e., "mini tower computer case with power supply accessories". The subject goods were imported from M/s.Leading Nations (Group) Limited, Hong Kong, on 17.03.2020. On 06.03.2020, goods were examined by the Officers of the 2nd respondent and it was found that the said container contained “used/ old mini tower computer cases with motherboard/ system board”.

b. On 18.03.2020, the petitioner had taken up the issue with foreign supplier, who had sent a letter clarifying that the said container was intended to be shipped to a different buyer and the same was wrongly shipped to the petitioner. Thereafter, the foreign supplier had requested the petitioner to send the container.

c. The 3rd respondent had adjudicated the issue and passed the order-in-original No.526/2020-AIR, wherein he had permitted the petitioner to re-export the goods on payment of redemption fine of Rs.4,20,000/- under Section 125 of the Customs Act, 1962 and imposed a penalty of Rs.2,00,000/- under Section 112(a) of the Customs Act. 1962.

d. On 09.10.2020, petitioner preferred an appeal and paid redemption fine and penalty vide TR6 Challan No.000017. Pursuant thereto, 2nd respondent had issued detention certificate recommending waiver of demurrage and detention charges for the period 27.02.2020 to 16.10.2020. The Commissioner Appeals passed the order-in-Appeal No.83/2021 dated 26.02.2021 wherein he had rejected the re-export granted by the 3rd respondent and confiscated the goods.

3. According to the petitioner, order of the appellate authority directing confiscation in the appeal filed by petitioner challenging the redemption fine

and penalty was without jurisdiction. Aggrieved, petitioner preferred an appeal before the Tribunal vide order dated 10.02.2022, wherein the Tribunal had set aside the order-in-appeal and permitted the goods to be re-exported and had also set aside the fine and penalty.

4. Learned counsel for 4th respondent would submit that they are warehousing unit inside SEZ and therefore question of waiver of any demurrages payable to them in terms of Handling of Cargo and Customs Area Regulation, 2009, may not even be applicable.

5. To a pointed question as to whether these issues have been examined while considering petitioner's request for waiver of demurrages, this Court finds that the learned Senior Standing Counsel for respondents would only place reliance on the counter, which does not appear to address these issues.

6. In that view of the matter, this Court is inclined to dispose of the writ petition with the following directions:

i) The impugned order dated 02.11.2022 is set aside and the matter is remanded back to the respondents for fresh consideration.

ii) It is open to the petitioner to submit their response by treating the impugned orders as show cause notice(s) within a period of 2 weeks from the date of receipt of a copy of this order.

iii) It is open to the 4th respondent to explain as to how they may not fall within the purview of Handling of Cargo in Customs Area Regulations, 2009, and thus no waiver certificate could be issued in respect of the demurrages which may be charged by them from the petitioner by submitting its response within a period of two weeks from the date of receipt of a copy of this order.

iv) If any such representation/ response is submitted by petitioner/4th respondent, the same shall be considered and appropriate orders shall be passed by the authorities concerned, in accordance with law within a period of four weeks thereafter.

v) It is made clear that this Court has not expressed any opinion on the merits of the case and the concerned authority shall decide the matters on its own merits and in accordance with law.

7. Accordingly, the writ petition stands disposed of. No costs.

06-04-2026

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

To:

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<u>MOHAMMED SHAFFIQ J.</u>

MKA

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