IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-03-2026

CORAM

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

WP No. 32716 of 2023
and WMP.No.32325 of 2023

M/s.American Ortho-Tech (P) Ltd.,
Represented By Its Director, Mr. Azam Syed,
No. A9, Phase Ii, MEPZ/SEZ,
Tambaram, Chennai - 600 045.

..Petitioner(s)

Vs

1. The SEZ Specified Officer,
   MEPZ/SEZ,
   Tambaram, Chennai - 600 045.

2. The Additional Directorate General Of Foreign
   Trade, Shastribhavan, Annex Building,
   Haddows Road, Nungambakkam,
   Chennai, Tamil Nadu - 600006.

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 03.10.2023 in S.MISC. 114/2023-24/MEPZ-SEZ/CUS issued by the 1st Respondent and quash the same and direct the 1st Respondent to amend the shipping bills mentioned in the petitioner's representation dated 02.03.2022 from free shipping bills to MEIS shipping bills and consequently, direct the 2nd Respondent to sanction the benefits under the Merchandise Export from India Scheme (MEIS) in terms Chapter 3 of the Foreign Trade Policy 2015-2020 within a time bound manner.

For Petitioner(s): Mr.Hari Radhakrishnan

For Respondent(s): Mr. Avinash Wadhwani,
Standing Counsel for R1

Mr.K.Srinivasa Murthy,
Senior Panel Counsel FOR R2

ORDER

The Writ Petition has been filed challenging the impugned order dated 03.10.2023, whereby petitioner's request for amendment of the shipping bill was rejected.

2. Petitioner, admittedly a SEZ Unit, claimed to have exported orthopaedic shoes and inner soles, however, while filing the shipping bills, it had neither declared that it intended to claim the benefit under the Merchandise Export from India Scheme (hereinafter referred to MEIS Scheme) nor mentioned "YES" in rewards column. Importantly, the rewards column has a default entry which reads "NO".

3. It is the case of the petitioner that the reasoning contained in the impugned order while rejecting petitioner's claim of benefits under the Merchandise Export from India Scheme (MEIS) in terms of Chapter 3 of the Foreign Trade Policy 2015-2020, viz., that petitioner's failure to tick "YES" in the reward box, resulted in denying the respondent Authorities an opportunity to

physically verify the goods, is unsustainable. That this would be clear if one bears in mind that petitioner is a SEZ Unit, governed by Special Economic Zones Act, 2005 as well as the Rules framed thereunder.

4. Importantly, learned counsel for petitioner would place reliance upon Rule 46 of the Special Economic Zones Rules, 2006 which reads as under:

> *"46. Procedure for Export. – (1) The procedure for export from Special Economic Zone through seaports or airports or Inland Container Depot or Container Freight Station or Land Customs Station or by Post or by Courier or by Personal Carriage, as the case may be, shall be as under:-.*
>
> *(a) the Unit shall file Shipping Bill, in quadruplicate, with the Authorized Officer of Customs in the Special Economic Zone together with relevant documents, namely, invoice, packing list and Currency Declaration Form (GR) (in duplicate):"*
>
> ....
>
> *(c) the goods shall not be subjected to routine examination and 'Let Export Order' shall be given on the basis of self certification by the Unit:*
>
> *Provided that goods may be sealed after examination, as per the norms prescribed for free shipping bills, at the option of the Unit, by the Authorized Officer.*
>
> *Provided further that if services are exported in non-physical form, the export values is to be furnished by the Unit on self certification basis as per the instructions of the Reserve Bank of India.*

Explanation- "Self certification" means the certification regarding sealing of container or package of goods under export given by the Unit and includes the certificate regarding contents and sealing of the container or package given by the owner or the working partner or the Managing Direction or the Company Secretary of the said Unit or any person authorized in this behalf by the owner or company or working partner, as the case may be, on the copies of Shipping Bill stating that the package or container in respect of goods under export have been sealed in his presence:"

5. Learned counsel for petitioner would also bring to the notice of this Court that the above Rule has since been amended with effect from 21.09.2018. He would thus submit that for the period from 2015 to 2018, petitioner would be governed by the Rules as it existed during the relevant period. He would submit that the reasoning of the respondent Authority is unjustified, in view of the fact that, in terms of Rule 46 of SEZ Rules, petitioner is required to file a shipping bill with the Authorized Officer of Customs in the Special Economic Zone, and there is no dispute regarding petitioner's compliance with the same. He would submit that in terms of Sub Clause (c) of Rule 46, goods exported from SEZ Unit shall not be subject to routine examination and **"Let Export Order",** shall be given on the basis of self certification by the Unit. As a matter of fact, there is no dispute that there was a self certification by the petitioner's Unit.

6. He would then place reliance upon Explanation to Rule 46, which explains the scope of self certification to mean certification regarding sealing of containers or packages of goods under export given by the Unit, and includes certification regarding contents and sealing of the container or package given by owner, working partner, Managing Director, Company Secretary or authorized person on the copies of shipping bill stating that the package or container in respect of goods under export have been sealed in their presence.

7. He would then submit that, in terms of sub clause (d) to Rule 46 of SEZ Rules, once goods are self - certified, the goods shall not be subject to examination, except in cases where there is specific intelligence or information after obtaining written permission of the Deputy or Assistant Commissioner of Customs. Thus, he would submit that the respondent Authority can have a grievance about their inability to examine the goods in the case of exports made by SEZ Units only if he is able to bring his case within the exception to Rule 46, as set out in Sub Clause (d) to the said Rules.

8. At this stage it was also brought to the notice of this Court that new Regulation has been introduced superseding earlier Regulation viz., Shipping Bill (Post export conversion in relation to Instrument Based Scheme) Regulations, 2025 (hereinafter referred to as '2025 Regulation') and place

reliance upon Regulation 3 of the Central Board of Indirect Taxes and Customs Notification No.21/2025 -Customs (N.T.), which reads as under:

> ***"3. Manner and time limit for applying for post export conversion of export entry.*** *– (1) The application for conversion shall be filled by an exporter in writing within one year from the date of clearance of goods under sub-section (1) of Section 51 or Section 69 of the Act or from the date of entry made under Section 84 of the Act, as the case may be:*
>
> *Provided that the jurisdictional Commissioner of Customs may, for the reasons to be recorded in writing, extend the time limit not exceeding six months, if it is satisfied that the circumstances were such which prevented the exporter from filing an application within the period specified under sub-regulation (1):*
>
> *Provided further the jurisdictional Chief Commissioner of Customs may, for the reasons to be recorded in writing, extend the time limit not exceeding six months, if it is satisfied that the circumstances were such which prevented the exporter from filing an application for a period exceeding one year and six months.*
>
> *(2) Where an export entry is filed before the 22nd February, the period of one year specified under sub-regulation (1) shall be reckoned from the date on which these regulations have come into force.*
>
> *(3) Where filing an application under sub-regulation (1) was prevented due to stay or an injunction passed by any court or tribunal, then, in computing the period specified therein, the period of continuance of the stay or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be*

excluded.

(4) The jurisdictional Commissioner of Customs, may, in his discretion, authorise the conversion of export entry, subject to the following, namely:--

(a) on the basis of documentary evidence, which was in existence at the time the goods were exported;

(b) subject to conditions and restrictions fro conversion provided in regulation 4;

(c) on payment of a fee in accordance with Levy of fees (Customs Documents) Regulations, 1970.

(5) Subject to the provision of sub-regulation (1), the jurisdictional Commissioner of Customs shall, where it is possible so to do, decide every application for conversion within a period of thirty days from the date on which it is filed."

9. He would submit that, by virtue of the above Regulation, he has a period of one year within which he could take out an application in respect of shipping bills filed prior to 22.02.2022. The shipping bills in question relate to the period prior to 22.02.2022 and, therefore, in terms of the above Regulation, he could take out an application within a period of one year from 03.04.2025. He would initially insist that the time spent in pursuing the present writ petition may be excluded however, thereafter, he submitted that two weeks' time may be granted for filing an application in terms of the 2025 Regulation.

10. Mr. Avinash Wadhwani, learned Standing Counsel appearing for the first respondent would submit that the impugned order does not warrant interference, inasmuch as it is well reasoned, as stated supra.

11. Mr.K.Srinivasamurthy, learned Senior Panel Counsel appearing for the second respondent would submit that they are more a formal party and that the amendment in the shipping bill ought to be examined and appropriate orders ought to be passed only by the first respondent herein.

12. In view of the limited prayer by the petitioner made in view of the development subsequent to filing of the writ petition viz., 2025 amendment, to grant liberty to the petitioner to file an application in terms of 2025 Regulation in terms thereof, this Court is inclined to grand liberty to the petitioner to submit an application under the 2025 Regulation within a period of two (2) weeks from the date of receipt of a copy of this order. If any such application is made, along with relevant documents as contemplated provided under the Customs Act, 1962, the same may be examined by the first respondent and appropriate orders shall be passed in accordance with law, after affording an opportunity of hearing to the petitioner. It is made clear that petitioner’s application would be considered uninfluenced by the impugned order. Further if petitioner application under 2025 Amendment is accepted, the impugned order would not survive.

13. Accordingly, this Writ Petition stands disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

30-03-2026

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

ANU

To

1. The SEZ Specified Officer,
   MEPZ/SEZ,
   Tambaram, Chennai - 600 045.

2. The Additional Directorate General Of Foreign
   Trade, Shastribhavan, Annex Building,
   Haddows Road, Nungambakkam,
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MOHAMMED SHAFFIQ, J.

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