IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-01-2026

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THE HON'BLE MR JUSTICE ABDUL QUDDHOSE

W.P. No. 34096 of 2024

M/s.Arasu Texports
S.G.No. 3/544, A-1, T.K.T. Mill Road,
Kuppandampalayam, Veerpandi(P.O), Tiruppur-641 605,
Rep. by its Partner Mr. Tamilarasu Arul Prashana

..Petitioner(s)

Vs

1. The Addl.Commissioner Of Customs(gr.3),
   O/o. The Commissioner Of Customs, Chennai
   Ii(import) Cutsom House, No.60,Rajaji Salai,
   Chennai -600 001.
2. The Deputy Commissioner Of Customs(gr.3),
   O/o. The Commissioner Of Customs, Chennai
   Ii(import) Cutsom House, No.60, Rajaji Salai,
   Chennai -600 001.

..Respondent(s)

The Writ Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to impugned order-in-original No. 110176/2024 dated 30.10.2024, passed by the 1st Respondent herein and to quash the same in so far as the said impugned order had been passed without jurisdiction, authority of law and in clear violation to the principles of natural justice and the provisions of law and the various judicial pronouncements rendered in this regard with the consequent direction to release the goods covered under Live Bills of Entry No. 5761216 and 5760784 both dated 23.09.2024 and by also granting necessary detention certificate, towards the waiver of the demurrage/container detention charges, concerning the bills of Entry No.5761216 and 5760784 both dated 23.09.2024, in terms of Reg. 6(1) of the Handling of Cargos in customs Area Regulations, 2009

For Petitioner(s): Mr. S.Baskaran

For Respondent(s): M/s. J. Vasu
Junior Panel Counsel for R1 and R2

ORDER

This Writ Petition has been filed challenging the impugned order-in-original dated 30.10.2024 passed by the first respondent confiscating the goods imported by the petitioner and has imposed a penalty of Rs.50,000/- on the petitioner as per the provisions of Customs Act.

2. The petitioner has challenged the impugned order-in-original on the ground that the goods were imported by the petitioner under a Special Advance Authorization issued by the Assistant DGFT, Coimbatore, as the concept of Minimum Import Price, as reflected in DGFT Notification No.77/2023, dated 16.03.2024, relied upon by the respondents in the impugned order-in-original does not arise. The petitioner further contends that no customs duty is payable by him under the Special Advance Authorization Scheme of the DGFT.

Therefore, according to the petitioner, without authority under law, the first respondent has passed the impugned order-in-original confiscating the imported goods and has also imposed penalty. The petitioner also contends that the Notification No.77/2023 relied upon by the respondents dated 15.09.2024 has also got no applicability to the imports made by the petitioner as the Bill of Entry filed by the petitioner was on 23.09.2024 when Notification No.77/2023 was not even in existence after 15.09.2024.

3. The learned counsel for the petitioner also submits that due to passing of the impugned order-in-original arbitrarily and illegally by the first respondent, the petitioner has been unable to obtain release of the goods and after making the necessary improvements to the said goods, return the goods to the wholesale buyer in U.S.A. He further submits that the aforesaid exercise has to be completed within a period of 18 months from the date of issuance of the advance authorisation license, which is on 09.09.2024 and that the said period is getting expired shortly.

4. A counter affidavit has been filed by the respondents reiterating the contents of the impugned order-in-original. They have reiterated that the customs duty is due payable by the petitioner by way of differential duty based

on Minimum Import Price, as per the Notification relied upon in the impugned order-in-original. They have also stated that the petitioner, instead of filing a statutory appeal, has filed this Writ Petition, which is not maintainable.

5. However, as seen from the impugned order-in-original, the primary contention raised by the petitioner that having obtained an Advance Authorization, they are not liable to pay customs duty on the subject imports has not been considered in the impugned order-in-original. According to the petitioner, it is settled law that once the petitioner has obtained a Special Advance Authorization for the subject goods, they are not liable to pay customs duty for the purpose of obtaining release of the goods to enable them to make improvement and return the goods to the wholesale buyer in U.S.A. The petitioner had also given a representation before the first respondent, who has passed the impugned order-in-original, giving detailed explanation as to why the petitioner is not liable to pay customs duty for the subject goods.

6. However, as seen from the impugned order-in-original, the detailed explanation given by the petitioner has not been considered by the respondents. Being goods imported under Special Advance Authorization, necessarily, the contentions of the petitioner that they are not liable to pay customs duty ought

to have been considered by the first respondent before passing the impugned order-in-original. The petitioner has also relied upon a Customs Notification before this Court to substantiate their claim that the petitioner is not liable to pay customs duty since the petitioner has obtained Special Advance Authorization and the said Notification is dated 01.04.2023.

7. The contentions of the petitioner as stated supra, have not been considered by the respondents and if the said contentions are found to be true, the petitioner will be put to irreparable loss and hardship. Necessarily, the said contentions will have to be considered within a short time by the respondents in order to enable the petitioner to obtain release of the goods, in case, the petitioner is able to convince the respondents with supporting documents that they are not liable to pay customs duty, as demanded under the impugned order-in-original. The petitioner categorically asserts, with the aid of Notification issued by the Customs Department as well as the Foreign Trade Policy issued by the DGFT, more particularly, in paragraph No.4.04A thereof that the petitioner is not liable to pay customs duty for the very same goods for which, the petitioner had already obtained the Special Advance Authorization. Necessarily, the said provision has to be considered by the respondents, failing which the petitioner will be put to irreparable loss and hardship.

8. Since the impugned order-in-original is not a speaking order, with regard to the contentions of the petitioner raised in this Writ Petition, this Court is of the considered view that the impugned order-in-original has to be quashed and the matter be remanded back to the very same respondent for fresh consideration after providing an opportunity to the petitioner to submit their explanation once again to the respondents as raised in this Writ Petition that they are not liable to pay any customs duty in view of the fact that they have already obtained the Special Advance Authorization for the subject goods. Necessarily, the respondents will have to consider the said explanation on merits and in accordance with law after providing an opportunity of personal hearing to the petitioner as per the Notification issued by the Customs Department within a time frame to be fixed by this Court.

9. Considering the fact that the petitioner has been unable to seek release of the goods for a long period of time and in view of the categorical contention of the petitioner before this Court that they are not liable to pay customs duty for the subject goods, this Court deems it fit to direct the respondents to pass final orders within a period of four (4) weeks from the date of receipt of a copy of this order. The learned counsel for the petitioner, on instructions, would submit that the petitioner would be satisfied if one opportunity of personal hearing alone is given by the respondents before passing final order.

10. For the foregoing reasons, the impugned order-in-original dated 30.10.2024, which is a non-speaking order, is hereby quashed and the matter is remanded to the very same respondent for fresh consideration on merits and in accordance with law. The petitioner is directed to submit a detailed explanation as to why the petitioner is not liable to pay the customs duty for the subject imports as well as the penalty as demanded under the impugned order-in-original within a period of **three (3) days** from the date of receipt of a copy of this order to the first respondent. On receipt of the said explanation from the petitioner within the stipulated time, the first respondent, after affording one opportunity of personal hearing to the petitioner and after giving due consideration to the explanation given by the petitioner pursuant to the directions given by this Court, shall pass final orders on merits and in accordance with law within a period of **four (4) weeks** thereafter. In case the petitioner succeeds, the respondents shall also consider the request of the petitioner for waiver of the detention / demurrage charges, in accordance with law.

11. With the aforesaid directions, this Writ Petition is disposed of. There shall be no order as to costs.

19-01-2026

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

Asi

To

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ABDUL QUDDHOSE, J.

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