IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-02-2026

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THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

WP No. 39174 of 2025
AND
WMP NO. 43979 OF 2025

M/s.Daiki Aluminium Industry India Pvt Ltd.,
Rep By Its Deputy Divisional Manager,
Mr.Gaurav Bhalla, Having Office At No.370,
Uni Road, Sri City, Chittor District,
Andhra Pradesh-517 646.

Petitioner(s)

Vs

1. Union Of India,
Rep By The Secretary,
Department Of Revenue,
Ministry Of Finance, North Block,
New Delhi-110 001.

2.Commissioner Of Customs,
Export Commissionerate,
Office Of Commissioner Of Customs,
Chennai-IV, Customs House,
No.60, Rajaji Salai, Chennai-600 001.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records relating to the Circular No.36/2010 dated 23.09.2010 and quash Paragraph No.3(a) of the said Circular as ultra vires to Section 149 of the Customs Act, 1962 and ultra vires to Article 14(1)(g) of the constitution issued by the 1st respondent and order passed in Original No.113573 of 2025 dated 17.6.2025 passed by the 2nd respondent and quash the same.

For Petitioner(s): Mr.G.Kalyan Jhabakh
Assist By M/s.Rashmi Yesudoss
for M/s.Surana And Surana

For Respondent(s): Mr.R.P.Pragadish,
Senior Standing Counsel
For R1 and R2

ORDER

The issue that arises for consideration in this writ petition is whether when there is no time limit prescribed under Section 149 of the Customs Act, (hereinafter referred as 'The Act'), a circular can be issued by the Central Board of Excise & Custom (CBEC), fixing a time limit for filing an application for amendment of shipping bills under Section 149 of the Act.

2.In the case on hand, the application submitted by the petitioner seeking for amendment of shipping bills had been rejected by relying upon the circular issued by CBEC fixing a time limit. The petitioner has challenged the same on the ground that no time limit can be fixed by CBEC since the statute does not provide for the same.

3.The learned counsel for the petitioner also relies upon various decisions rendered by various Constitutional Courts of India through his compilation of judgments placed on record before this Court. In all those decisions relied upon by the learned counsel for the petitioner, it has been consistently held that when Section 149 of the Act has not prescribed any time limit for filing an application under Section 149 of the Act, seeking for amendment of bill of entries / shipping bills, the question of fixing time limit through circular issued by CBEC does not arise.

4.Under the impugned order, the 2nd respondent has relied upon the Circular No.36/2010-Customs, dated 23.09.2010 for the purpose of rejecting the petitioner's application seeking for amendment of subject shipping bills as per the provisions of Section 149 of the Act.

5.A counter has also been filed by the respondents before this Court by reiterating the contents of the impugned order stating that only in accordance with law the circular has been issued by CBEC referred to supra and therefore according to the respondents rightly the petitioner's application filed under Section 149 has been rejected.

6.It is also brought to the notice of this Court by the learned Senior Standing Counsel appearing for the respondents that the very same issue raised by the petitioner is now subject matter of consideration by the Hon'ble Supreme Court in S.L.P.No.38482 of 2025. It is also fairly admitted by the learned Senior Standing Counsel appearing for the respondents that even though an SLP has been filed, as on date, there is no stay granted by the Hon'ble Supreme Court.

7.The said SLP has been filed against the order passed by the Madras High Court in C.M.A.No.1043 of 2025 dated 10.04.2025. In C.M.A.No.1043 of 2025 dated 10.04.2025, the Madras High Court has taken a view that the circular of CBEC, relied upon by the respondents under the impugned order is bad in law since Section 149 of the Act does not provide for any time limit for filing an application for amendment of bill of entries / shipping of bills. Therefore, this Court is of the considered view that there cannot be different yardsticks for different importers / exporters. The petitioner cannot be penalised just because the Customs Department has filed SLP before the Hon'ble Supreme Court pertaining to the very same issue, which is yet to be heard by the Hon'ble Supreme Court.

8.Since the Constitutional Courts of India in the decisions relied upon by the petitioner have consistently held that when Section 149 of the Act does not prescribe any specific time limit for filing application under Section 149 of the Act, for the amendment of bill entries / shipping bills, the question of fixing a time limit under a circular by CBEC which is relied upon by the 2nd respondent in the impugned order does not arise.

9.Thus, this Court has to necessarily quash the impugned order and remand the matter back to the 2nd respondent for fresh consideration on merits and in accordance with law, on the petitioner's application seeking for amendment of subject bill entries / shipping bills, within a time frame to be fixed by this Court, without relying upon the Circular No.36/2010-Customs dated 23.09.2010, issued by CBEC.

10.Accordingly, the impugned order passed by the 2nd respondent is hereby quashed. The matter is remanded back to the 2nd respondent for fresh consideration on merits and in accordance with law, without relying upon the Circular No.36/2010 dated 23.09.2010 issued by CBEC, within a time frame to be fixed by this Court. The 2nd respondent is directed to pass final orders by adhering to the principles of natural justice, after affording adequate personal hearing to the petitioner, within a period of twelve (12) weeks from the date of receipt of a copy of this order, on the petitioner's application seeking for amendment of the subject shipping bills under Section 149 of the Customs Act.

The 2nd respondent shall permit the petitioner to pay the appropriate fees for the application seeking for amendment of shipping bills. However, it is made clear that the orders to be passed by the 2nd respondent pursuant to the direction of this Court is subject to the decision to be rendered by the Hon'ble Supreme Court in the near future in S.L.P.No.38482 of 2025.

11.With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

02-02-2026

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

To

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Ministry Of Finance, North Block,
New Delhi-110 001.

2.Commissioner Of Customs,
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Office Of Commissioner Of Customs,
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ABDUL QUDDHOSE J.

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