IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-04-2026

CORAM

THE HON'BLE DR JUSTICE G. JAYACHANDRAN

AND

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CMA No. 426 of 2026
and
CMP No.5144 of 2026

The Commissioner of Customs
Chennai-II, Commissionerate,
Custom House,No. 60, Rajaji Salai,
Chennai-01.

..Appellant(s)

Vs

M/s.ITI Ltd.,
Doorvani Nagar,
Bangalore-16, Karnataka.

..Respondent(s)

Prayer: This Civil Miscellaneous Appeal is filed under Section 130 of Customs Act, 1962, to set aside the Final Order No.41115 of 2017 dated 22.06.2017 passed by the Honble CESTAT, South Zonal Bench, Chennai.

For Appellant(s): Mr.A.P.Srinivas

For Respondent(s): No Appearance

JUDGMENT

(Judgment of the Court was delivered by Dr.G.Jayachandran J.)

This Civil Miscellaneous Appeal is filed challenging the Final Order No.41115 of 2017 dated 22.06.2017 passed by the Honble CESTAT, South Zonal Bench, Chennai.

2.The Respondent, M/s. ITI Bangalore, imported parts and sub-assemblies of Mobile Switching Centres (MSC), Base Station Controllers (BSC), and Base Transceiver Stations (BTS). These imports were made via Bill of Entry No. 4079 dated 03.07.2004 through ACC, Chennai, and Bills of Entry Nos. 672408, 672417, and 672609, all dated 23.08.2004, through Chennai Seaport.

3."Based on intelligence received, the Directorate of Revenue Intelligence (DRI) issued a Show Cause Notice to the Respondent. Subsequently, the matter was referred to the Commissioner of Customs, Bangalore, for adjudication based on the show cause notice issued by the DRI. The Order-in-Original was passed by the Customs Department on 21.03.2007, the operative portion of which is extracted below:

"(a) I order dropping of all proceedings proposed in Para 21 (ii) of the Show Cause Notice under adjudication.

(b) I order denial of concessional rate of duty benefit availed vide Customs Notification No. 21/2002 dated 1.3.2002 Sl.No.242 for the import of Servers, Printers, Switches, routers, modems and UPS valued at Rs.70,30,153/-. I order that and these items are to be charged at merit rate of duty. The consequential differential duty amount of Rs.11,52,220/- under Sec. 28(1) of the Customs Act, 1962 along with interest at applicable rates

under Section 28 AB ibid are hereby confirmed and demanded.

(c) I order appropriation of the amount of duty determined as above of Rs.11,52,220/- out of the amount of Rs.1,72,23,326/- deposited vide TR6 Challan No.1002415 dated 28.10.2004.

(d) I order appropriation of the amount interest at applicable rates on the duty amount of Rs.11,52,220/- confirmed as above, out of the amount of Rs.4,69,866/- deposited towards interest liability by the Noticee vide TR6 Challan No.1002415 dated 28.10.2004.

(e) I order confiscation of the said Servers, Printers, Switches, Routers, Modems and UPS valued at Rs.70,30,153/- imported vide Bills of Entry Nos. 672408, 272417 & 672607 all dated 23.08.2004 under Sec.111(m) of the Customs Act, 1962. Keeping in mind that the importers are a Government undertaking, I take a lenient view and extend an option to the importers under the provisions of Section 125 of Customs Act, 1962 to pay in lieu of the confiscation a fine of Rs.10,00,000/- (Rupees Ten Lakhs only). I order appropriation of this fine amount of Rs.10,00,000/- (Rupees Ten Lakhs) out of the balance amount of the deposit of Rs.1,73,23,326/- by the Noticee after adjustment and appropriation of duty of Rs.11,52,220/- demanded.

(f) I impose a penalty of Rs.1,00,000/- (Rupees One Lakh only) on M/s.ITI Ltd., under Sec.112(a) of the Customs Act, 1962. I order appropriation of this penalty amount of Rs.1,00,000/- out of the balance amount available from the

deposit of Rs.1,73,23,326/- made by the Noticee after appropriation of duty demand and redemption fine amounts.

(g) ordered accordingly, with consequential benefits, if any, as per law."

4.Aggrieved by the said order, the Commissioner of Customs preferred N appeal before the CESTAT in Appeal No. C/00290/2007-CU[DB], challenging whether the DRI is authorized to issue a Show Cause Notice and initiate proceedings by customs department. The CESTAT remanded the matter back to the original adjudicating authority with a direction to first decide the issue of jurisdiction, and after the availability of Hon'ble Superme Court's decision in the case of **Mangli Impex,** then subsequently decide on merits after providing an opportunity to the assessee of being heard. Status quo was directed to be maintained until the final decision.

5.Being aggrieved by the said order, the Department has filed the present appeal.

6.Notice has been served to the Respondents, however, there is no appearance either in person or through counsel. We note that the Hon'ble Supreme Court has delivered a landmark judgment in a batch of matters, including the **Mangli Impex case**, in its review of ***Commissioner of Customs v.***

Canon India Pvt. Ltd. reported in ***(2024) 24 Centax 117 (S.C.)***. In this decision, the Court overruled its previous 2021 stance and held that officers of the Directorate of Revenue Intelligence (DRI) are indeed 'proper officers' competent to issue Show Cause Notices for the recovery of duty under Section 28 of the Customs Act.

7.In view of the above, we set aside the order passed by the CESTAT and remand the matter to the Customs Department to consider the Appeal of the Revenue on its merits and pass an appropriate order.

8.Accordingly, the present Civil Miscellaneous Appeal stands disposed of. Consequently, connected miscellaneous petition is also closed.

(G.J.,J.) **(R.S.V.,J.)**
15-04-2026

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

SHA

DR.G.JAYACHANDRAN, J.
AND
R.SAKTHIVEL, J.

SHA

To
The Commissioner of Customs
Chennai-II, Commissionerate,
Custom House,No. 60, Rajaji Salai,
Chennai-01.

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