Case Citation: (2026) taxcode.in 1576 HC

Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2026

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P.No.12149 of 2026

and WMP.Nos.13249, 13250 & 13251 of 2026

M/s.Arasu Texports
S.G.No.3/544 A-1,T.K.T.Mill Road
Kuppandampalayam, Veerapandi
(PO) Tiruppur-641605 Rep by its
Partner Tamilarasu Arul Prashanna — Petitioner(s)

Vs.

1. The Addl. Commissioner of Customs (Gr.3)
O/O.The Commissioner of Customs
Chennai II (Import) Custom 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) Custom House
No.60, Rajaji Salai, Chennai-600 001.

Respondent(s)

Prayer: This Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to impugned Order-in-Original No.118087/2026 dated 12.03.2026 passed by the 1st respondent herein and to quash the same in so far as the said

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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 pronouncement rendered in this regard with a 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 certificates 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 : Mr.S.Baskaran

For Respondents : Mr.Sai Srujan Tayi
Senior Standing Counsel
(GST & Customs)

ORDER

The petitioner challenges the Order-in-Original No.118087/2026 dated 12.03.2026 passed by the first respondent under Section 17 read with Section 111 of the Customs Act, 1962. By the impugned order, the goods imported under Bills of Entry dated 23.09.2024 were held to be in contravention of the Foreign Trade Policy and the relevant notifications issued by the Directorate General of Foreign Trade (DGFT). The goods were valued at Rs.33,31,970/-. The petitioner was given an option to redeem the confiscated goods for the limited purpose of re-export, on payment of a redemption fine of Rs.25,000/-. A

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penalty of Rs.50,000/- was also imposed under Section 112(a) of the Customs Act, 1962.

2. The petitioner is engaged in the business of importing and manufacturing various types of apparel garments. In the course of its business, the petitioner placed an order with M/s. Suzho Innovtex Co., Ltd., China, for the supply of 100% Polyester Knitted Fabrics. The goods were imported under Bills of Entry dated 23.09.2024.

3. According to the petitioner, the goods were imported under a Special Advance Authorization issued on 09.09.2024. The petitioner therefore claims exemption from payment of customs duties in terms of Paragraph 4.04A of the Foreign Trade Policy read with Notification No.27/2023 dated 01.04.2023. However, the goods were not released on the ground that the import of synthetic knitted fabrics below the Minimum Import Price (MIP) of USD 3.50 per kilogram was restricted under DGFT Notification dated 16.03.2024. The said condition was subsequently extended up to 31.03.2025.

4. The petitioner earlier challenged the order of confiscation and imposition of penalty before this Court in W.P.No.34096 of 2024. By order

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dated 19.01.2026, this Court set aside the earlier Order-in-Original dated 30.10.2024 on the ground that it was a non-speaking order and remitted the matter to the first respondent for fresh consideration. Pursuant thereto, the impugned order dated 12.03.2026 has been passed.

5. Mr.S.Baskaran, learned counsel for the petitioner, submitted that Paragraph 4.04A of the Foreign Trade Policy specifically permits duty-free import of fabrics under the Special Advance Authorization Scheme. Since the goods imported by the petitioner were covered by a valid Special Advance Authorization issued by the competent authority, the petitioner is entitled to the benefit of the duty exemption. It was therefore contended that the impugned order is liable to be set aside.

6. Per contra, Mr.Sai Srujan Tayi, learned Senior Standing Counsel for the respondents, submitted that the Special Advance Authorization permits import only of goods which are otherwise freely importable. According to him, the authorization does not permit the import of goods which are prohibited or restricted under the Foreign Trade Policy. He therefore submitted that Paragraph 4.04A cannot be relied upon by the petitioner to overcome the restriction imposed by the DGFT notifications.

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7. It was accordingly submitted that the impugned order has been passed in accordance with the provisions of the Customs Act and the applicable Foreign Trade Policy and therefore does not warrant interference by this Court.

8. I have considered the submissions of the learned counsel appearing for the parties and perused the materials placed on record.

9. It is not in dispute that the competent authority issued a Special Advance Authorization in favour of the petitioner on 09.09.2024, permitting the petitioner to import Polyester Knitted Fabrics. The authorization was issued under the Special Advance Authorization Scheme contemplated under Paragraph 4.04A of the Foreign Trade Policy.

10. Notification No.27/2023 dated 01.04.2023 was issued under Section 25(1) of the Customs Act, 1962. The said notification grants exemption from the specified customs duties in respect of fabrics imported into India against a valid Special Advance Authorization issued by the Regional Authority in terms of Paragraph 4.04A of the Foreign Trade Policy, subject to the conditions stipulated therein.

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11. It is also not in dispute that the DGFT, by notification dated 16.03.2024, prescribed a Minimum Import Price of USD 3.50 per kilogram in respect of specified synthetic knitted fabrics. The said condition was initially made applicable up to 15.09.2024 and was thereafter extended from time to time, ultimately up to 31.03.2025.

12. Significantly, the notification dated 04.01.2025, by which the Minimum Import Price condition was extended up to 31.03.2025, specifically provided that the condition would apply to imports by holders of Special Advance Authorizations, EOUs and units in SEZs, subject to the condition that the imported inputs were not sold in the Domestic Tariff Area (DTA).

13. The respondents, however, contend that the petitioner cannot claim the benefit of the said notification, on the ground that the import of synthetic knitted fabrics below USD 3.50 per kilogram was subject to a restriction under the Foreign Trade Policy. According to the respondents, the existence of the Special Advance Authorization does not override such restriction.

14. The above contention cannot be accepted in the facts of the present case. Paragraph 4.04A of the Foreign Trade Policy specifically provides for duty-free import of fabrics under the Special Advance Authorization Scheme for

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manufacture and export of articles of apparel, clothing and accessories. The petitioner had obtained a Special Advance Authorization from the competent authority before the import of the subject goods.

15. More importantly, the notification dated 04.01.2025 itself recognises imports by holders of Special Advance Authorizations and makes the Minimum Import Price condition applicable to such imports subject to the condition that the imported inputs are not sold in the Domestic Tariff Area. Therefore, the mere fact that a Minimum Import Price condition was prescribed cannot, by itself, lead to the conclusion that the goods imported under a valid Special Advance Authorization were not eligible for the exemption contemplated under Paragraph 4.04A and Notification No.27/2023.

16. The impugned order, however, proceeds on the basis that the petitioner was not entitled to the benefit of the duty exemption and that the import was in contravention of the Foreign Trade Policy, without properly considering the effect of Paragraph 4.04A of the Foreign Trade Policy, the Special Advance Authorization issued to the petitioner and the subsequent DGFT notification specifically dealing with imports by Special Advance Authorization holders.

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17. In view of the above, the finding recorded by the first respondent that the petitioner was not entitled to the benefit of the duty exemption cannot be sustained. Consequently, the order of confiscation and the consequential redemption fine and penalty also cannot survive.

18. Accordingly, the Writ Petition is allowed. The impugned Order-in-Original No.118087/2026 dated 12.03.2026 is set aside. The respondents are directed to release the goods covered by the live Bills of Entry Nos.5761216 and 5760784, both dated 23.09.2024, in accordance with law.

19. The respondents are also directed to issue a detention certificate for waiver of demurrage/container detention charges in respect of the aforesaid Bills of Entry, in terms of Regulation 6(1) of the Handling of Cargo in Customs Areas Regulations, 2009, within a period of four weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

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Index : Yes/No
Speaking order : Yes/No
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