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In the High Court of Judicature at Madras

Reserved on : 08.10.2025	Delivered on: 14.10.2025
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Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.36557 of 2025

M/s.Unik Traders rep.by its
Legal Heir Shri Asif H.Thara

...Petitioner

Vs

1.The Commissioner of Customs,
Chennai-II (Import) Commissionerate,
Custom House, No.60, Rajaji Salai,
Chennai-1.

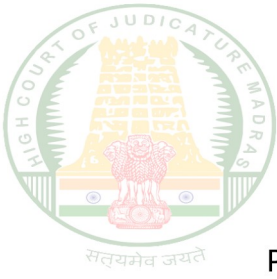
2.The Commissioner of Customs,
Chennai-III Commissionerate,
Custom House, No.60,
Rajaji Salai, Chennai-1.

3.The Commissioner of Customs
(CIU), Custom House, No.60,
Rajaji Salai, Chennai-1.

4.The Deputy Commissioner of
Customs GR-1 (Import),
Custom House, No.60,
Rajaji Salai, Chennai-1.

5.The Assistant Commissioner of
Customs (CIU/General), Custom
House, No.60, Rajaji Salai,
Chennai-1.

...Respondents



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PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to release the goods imported vide 19 Bills of Entry Nos.2919144 dated 27.6.2025, 3043956 dated 03.7.2025, 3215952 dated 12.7.2025, 3524181 dated 27.7.2025, 3937157 dated 17.8.2025, 3790226 dated 09.8.2025, 3524184 dated 27.7.2025, 3790083 dated 09.8.2025, 3789977 dated 09.8.2025, 3937118 dated 17.8.2025, 3937061 dated 17.8.2025, 3937098 dated 17.8.2025, 4320043 dated 05.9.2025, 4211959 dated 30.8.2025, 4211685 dated 30.8.2025, 4211332 dated 30.8.2025, 4320050 dated 05.9.2025, 4320046 dated 05.9.2025 and 4502000 dated 14.9.2025 and issue waiver of demurrage and detention charges in terms of Regulation 6(1)(I) of the Handling of Cargo in Customs Area Regulations, 2009.

For Petitioner : Mr.Vijay Narayan, SC for
Dr.S.Krishnanandh

For Respondents : Mr.AR.L.Sundaresan, ASGoI
assisted by
Mr.N.P.Kumar, Spl.P.P.

ORDER

The writ petition has been filed seeking for the issuance of a Writ



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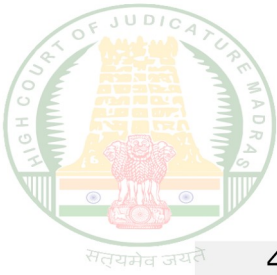
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of Mandamus directing the respondents to release the goods imported vide 19 Bills of Entry and issue waiver of demurrage and detention charges in terms of Regulation 6(1)(I) of the Handling of Cargo in Customs Areas Regulations 2009.

2. Heard both.

3. The case of the petitioner is as follows :

During the course of their business, 19 Bills of Entry were filed by the petitioner for clearance of roasted areca nuts, which were refused to be released by the respondents on the purported misclassification of the goods, which, according to the petitioner, is classifiable under CTH 20081920. The classification was subsequently amended as CTH 20081991. Out of the total 29 Bills of Entry, which were originally filed, based on the report given by the Food Safety Authority, 10 Bills of Entry were cleared without any hitch and in so far as the remaining 19 Bills of Entry are concerned, 13 have not been cleared in spite of receipt of the report; for four Bills of Entry, even samples were not drawn and not cleared; and the remaining two Bills of Entry were not cleared for different reasons. Hence, the petitioner is before this Court.



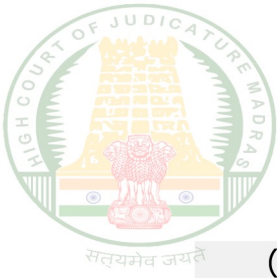
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4. The Assistant Commissioner of Customs in the office of the Commissioner of Customs filed a counter affidavit on behalf of the respondents wherein they took the following stand :

(i) Even though the petitioner had declared the consignment as roasted areca nut, based on the Intelligence Report, it was found that there was a possible mis-declaration of raw areca nut being imported under the guise of roasted areca nut in order to avoid prohibitions of minimum import price restrictions and also for evading duty. Accordingly, the samples were drawn from the 19 consignments. Based on the report received from the Central Revenues Control Laboratory, New Delhi (CRCL), the Department will act on the same as per the provisions of the Customs Act, 1962.

(ii) The writ petition is premature and the respondents must be permitted to undertake the entire process and pass an adjudication order after receipt of the test reports and till then, the goods cannot be released. Ultimately, they sought for dismissal of the writ petition.

5. The learned Senior Counsel appearing on behalf of the petitioner made the following submissions :



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(a) The goods have already been certified to be roasted areca nuts by the Food Safety and Standards Authority of India (FSSAI) through their accredited laboratories and that it is the only laboratory, which can analyze the imported goods and submit a report.

(b) Section 89 of the Food Safety and Standards Act, 2006 (for brevity, the FSS Act) gives an overriding effect for the report submitted by the Competent Authority after testing the goods and there is no question of once again testing the same goods.

(c) In case of sending a second sample, the Food Safety and Standards (Import) Regulations, 2017 provide that only the importer can seek for retesting and that it cannot be done by the Department.

(d) The First Bench of this Court, by common judgment dated **04.3.2025** in ***W.A.Nos.3647 and 3648 of 2024 [Commissioner of Customs, Chennai Import, Chennai-II Commissionerate, Customs House, Chennai-1 Vs. M/s.Universal Impex, Navi Mumbai-400705 rep. by its Proprietor Sarfaj Jaliyawala]***, has categorically held that if the moisture content is between 10% and 15%, the same should be considered as a raw areca nut and anything below the said category would be considered as a roasted areca nut. This finding was rendered by the First Bench of this Court based on the



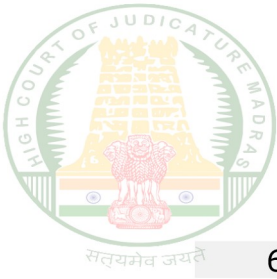
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parameters fixed by the Authority for Advance Rulings. Admittedly, in this case, the moisture content was below 10% and in spite of the same, the respondents are taking a different stand, which runs contrary to the said judgment of the First Bench of this Court.

(e) The Ministry of Finance, through communication dated 01.8.2025, has taken note of the said judgment of the First Bench of this Court and also the Advance Rulings and concluded that where the moisture content is below 10%, it corresponds to a roasted areca nut.

(f) The CRCL, to which, the respondents have once again sent the samples, is a lower level lab since the initial report that has been given was by a referral laboratory, which is equivalent to an appellate authority under Section 46(4) of the FSS Act. This Court and several High Courts have repeatedly held that when the moisture content is below 10%, it corresponds to a roasted areca nut and every time the Customs Department cannot rake up this issue. Therefore, the respondents must be directed to release the goods.

(g) To substantiate his submissions, he relied upon the judgment of a Division Bench of the Allahabad High Court in the case of **Rawder Petroleum Pvt. Ltd. Vs. Union of India [reported in 2025 (32) CENTAX 169]**.



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6. Per contra, the learned Additional Solicitor General appearing on behalf of the respondents made the following submissions :

(a) The writ petition is premature since the investigation is pending and it is in the process of being ascertained as to whether there is any mis-declaration made by the petitioner after declaring raw areca nuts as roasted areca nuts in order to avoid prohibitions of minimum import price restrictions and also to evade duty.

(b) A Mandamus cannot be issued to prevent an Authority from investigating into the matter and finding out the truth. The FSSAI certification will confine itself only to the issue as to whether the food is edible and it cannot certify as to whether it is a roasted areca nut.

(c) Regulation 2.3.55 of the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 makes it clear.

(d) When the earlier common order was passed in ***W.P.Nos. 23836 and 24237 of 2024*** dated ***22.11.2024*** [***M/s.Universal Impex rep. by its Proprietor Shri Sarfraj Jaliyawala Vs. Commissioner of Customs, Chennai Import, Chennai II, Commissionerate, Customs House, Chennai-1,*** a suggestion was made by the learned Single Judge of this Court that if the Government



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wants to take a decision, it can fix the minimum support price even for the roasted areca nut that is imported.

(e) Taking cue from the said suggestion, a Notification dated 02.4.2025 has been issued, by which, it was made clear that if the roasted areca nut is imported below the CIF value of Rs.351/- per Kg, it becomes a prohibited item, which cannot be brought inside the country. The said Notification has been challenged in a batch of writ petitions, pursuant to which, it has been stayed and the main writ petitions were finally heard by a Division Bench.

(f) The samples were sent for the entire 19 Bills of Entry and the CRCL has given a report, which would show that except for one consignment, none of the other consignments satisfies the parameters of a roasted areca nut.

(g) The respondents are in the process of commencing the adjudication proceedings and if the petitioner wants the goods to be released, they can seek for provisional release under Section 110 of the Customs Act and the same will be considered on its own merits and in accordance with law.

7. For the above submissions of the learned Additional Solicitor



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General appearing on behalf of the respondents, the learned Senior Counsel appearing on behalf of the petitioner replied as follows :

Based on the report given by the FSSAI, 10 consignments have already been cleared and even as per the test result given by the CRCL, except for two consignments, all the other consignments are found to have moisture content below 10%. Therefore, there cannot be any objection on the side of the respondents to release the goods.

8. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record.

9. The petitioner has sought a straight forward relief for the release of goods covered under the 19 Bills of Entry. This is on the ground that the report given by the FSSAI would show that all these consignments are roasted areca nuts.

10. The counter affidavit has been filed on behalf of the respondents to the effect that the investigation is pending and that therefore, the writ petition is premature.

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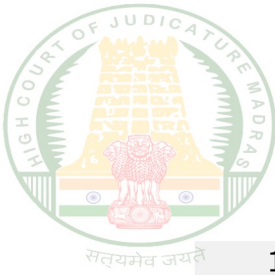


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11. During the course of arguments, the learned Additional Solicitor General appearing on behalf of the respondents filed the report given by the CRCL for all the 19 consignments. For proper appreciation, the same is tabulated as hereunder :

S.N	BE No.	BE Date	Item Description	CTH	No. of containers	Sample drawn by	FSSAI Report	CRCL Report	CRCL Remarks
1	2919144	27.6.2025	Roasted areca nut	20081991	7	Docks Admin	N/A	8.5	Partially dried A/N
2	3043956	03.7.2025	Roasted areca nut	20081991	7	Docks Admin	N/A	6.9	Other than RAN
3	3215952	12.7.2025	Roasted areca nut	20081991	5	CIU	5.63	Pending	---
4	3524181	27.7.2025	Roasted areca nut	20081991	5	Docks Admin	Rejected (damaged cut pieces) 5.91	5.9	Roasted areca nut
5	3524184	27.7.2025	Roasted areca nut	20081991	7	Docks Admin	5.91	6.3	Other than RAN
7	3790083	09.8.2025	Roasted areca nut	20081991	5	Docks Admin	5.8	6.3	Other than RAN
9	3937061	17.8.2025	Roasted areca nut	20081991	5	Docks Admin	5.96	6.6	Other than RAN
10	3937098	17.8.2025	Roasted areca nut	20081991	5	Docks Admin	N/A	6.9	Other than RAN
11	3937118	17.8.2025	Roasted areca nut	20081991	7	Docks Admin	5.58	6.8	Other than RAN
12	3937157	17.8.2025	Roasted areca nut	20081991	7	Docks Admin	9.5 (rejected) 6.25	6.7	Other than RAN
13	4211332	30.8.2025	Roasted areca nut	20081991	7	Docks Admin	6.25	8.2	Partially dried A/N
14	4211685	30.8.2025	Roasted areca nut	20081991	7	Docks Admin	5.19	6.8	Other than RAN
15	4211959	30.8.2025	Roasted areca nut	20081991	7	Docks Admin	6	6.9	Other than RAN
16	4320043	05.9.2025	Roasted areca nut	20081991	5	Docks Admin	N/A	6.5	Other than RAN
17	4320046	05.9.2025	Roasted areca nut	20081991	5	Docks Admin	N/A	Pending	----
18	4320050	05.9.2025	Roasted areca nut	20081991	5	Docks Admin	N/A	Pending	----
19	4502000	14.9.2025	Roasted areca nut	20081991	6	Docks Admin	N/A	6.7	Other than RAN



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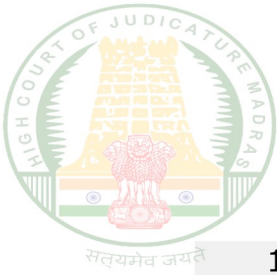
12. The learned Senior Counsel appearing on behalf of the petitioner submitted as follows :

The report was originally given by the referral lab namely the National Food Laboratory, Chennai. This lab is in the nature of an Appellate Authority under Section 46(4) of the FSS Act. The report given by this Authority is final in so far as the determination of nature of goods is concerned and that it cannot be attempted to be overruled by sending the sample for retesting to the CRCL, which is the Original Authority subordinate to the referral lab.

13. Per contra, the learned Additional Solicitor General appearing on behalf of the respondents submitted that the report given by the FSSAI only certifies as to whether the food is edible and it has nothing to do with the identification of goods as roasted areca nut.

14. It is not necessary for this Court to deal with the above issue and render a finding since the report of the CRCL has already been placed before this Court. On carefully going through the said report, it is seen that except for two of the consignments, all the other consignments have a moisture content below 10%.

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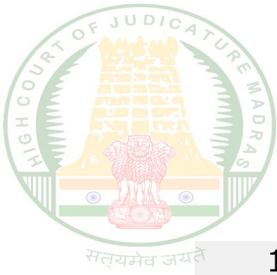
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15. The CRCL has now categorized the roasted areca nut into dried areca nut. Wherever the moisture content is below 6, it is categorized as roasted areca nut and wherever it goes beyond 6, it is categorized dried areca nut.

16. It is not known as to the basis, on which, the CRCL is categorizing the areca nut as roasted areca nut or dried areca nut.

17. The First Bench of this Court, while disposing of **W.A.Nos.3647 and 3648 of 2024** by a common judgment dated **04.3.2025**, held as follows :

"15. Therefore, as per the parameters fixed by the Authority for Advance Rulings, if the moisture content is between 10% and 15%, the same would be considered as a raw areca nut and anything below the said category would be considered as roasted areca nut. The said finding has attained finality. All the laboratory reports also state that the moisture content of the areca nuts is below 10%. Therefore, we find no reason to interfere with the impugned order."



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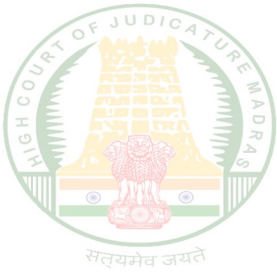
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18. The said common judgment of the First Bench of this Court was also subsequently confirmed by the Hon'ble Apex Court by dismissing the special leave petitions in **S.L.P.(Civil) Nos.17655 & 17656 of 2025** filed by the Department by a common order dated **25.7.2025**.

19. In view of the above, as a Single Judge, I am bound by the common judgment of the First Bench of this Court, which has categorically held that where the moisture content is below 10%, it would be considered as roasted areca nut. This view has been taken by various High Courts.

20. In the judgment of the Division Bench of Allahabad High Court in **Rawder Petroleum Pvt. Ltd.**, it has been held thus :

"41. Further, this Court cannot be oblivious of the fact that the import is governed by the Food Safety and Standards (Import) Regulations, 2017, wherein the regulations 9(9) and 9(10) specifically provides that in case, if the test results of the first sample are adverse, then it is only the importer, who can make an Application for its Re-testing and only thereafter it could have been sent for Re-



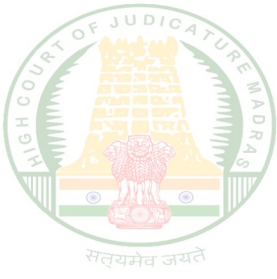
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testing. However, in the present case, after sending the sample on 19/11/2024, the department on their own and without any reasons have sent another sample on 27/11/2024 to another laboratory after 5 days from receipt of report dated 22/11/2024 which dehors the provisions of the Regulations of 2017. Even, the Guidelines dated 12/07/2022, issued by Food Safety Standards Authority of India, has been seemingly ignored, as although the said guidelines provide for compliance for time-limit for analysis of sample under clause 2(ii), to be of 5 days from the receipt of the sample in case of 'Import', however the department has flouted the said timeperiod as is apparent from the tabular chart incorporated herein above, wherein the samples are received by the testing center after 9 and 25 days respectively.

42. There is no reasons forthcoming as to why and in what circumstances, the second samples were drawn by the department and that too without any application by the importer, as per the rules. No sustainable grounds have been made out by the department against the test-reports of First Lab, Gurgaon, nor any reasons have been forthcoming disputing the test results of the said First Lab, Gurgaon. This Court finds that the test-result obtained from First Lab for samples drawn by the department, immediately after its import, shows the moisture content of 'roasted areca nuts'



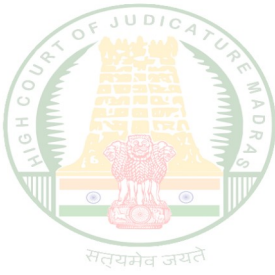
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to be 3.39%. The said test-report has been obtained for a sample, which was collected on 18.11.2024 and was received in the testing agency on 19.11.2024 and most importantly, the report was prepared within 5 days of its receipt i.e on 22.11.2024. Seemingly, the said report, which is the earliest report, appears to be the most authentic report meeting the guidelines of the FSSA as well as the Customs Department and this court finds no plausible reasons for denying the benefit of the said earliest and/or first report to the importer.

43. The lackadaisical attitude of the department in not following the established guidelines relating to drawing samples and sending for testing cannot be given concession to in any manner. Apparently, it seems the department indiscriminately drew samples and sent to testing Centre at its own whims and wanted to keep the importer at bay during the pendency of the Appeal filed by them against the advance ruling, relating to classification of 'roasted areca nuts'. The act of the department in relying on a test report, which could not have been carried out in the first place, also seems to be illfounded. Thus, the seizure of the commodity 'roasted areca nuts' apparently seems to be motivated and driven by malafide and cannot be allowed to be sustained."



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21. In the said judgment of the Allahabad High Court, the Division Bench held that the report of the FSSAI is an authentic report and that if at all a retesting must be done as per the relevant regulations, it is only the importer, which can insist for retesting and not the Department.

22. It is not necessary for this Court to even get into this issue since the retest report would show that the moisture content is below 10% in almost all the consignments except for two and that for three other consignments, the report is pending.

23. With the above finding, this Court could have ordered the respondents to release the goods. However, this Court has to necessarily deal with the other issue that has been raised by the learned Additional Solicitor General appearing on behalf of the respondents by pointing out to the Notification dated 02.4.2025 wherein it was made clear that even if it is a roasted areca nut, it cannot be imported below the CIF value of Rs.351/- per Kg and if that



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is done, as per the said Notification, it becomes a prohibited commodity.

24. The said Notification has been challenged before this Court and has already been stayed by this Court. Now, the matter is pending before a Division Bench of this Court. Therefore, as on date, the said Notification cannot be implemented till final orders are passed by the Division Bench of this Court.

25. It is not in dispute that 10 consignments have already been released based on the report given by the FSSAI. There cannot be any further investigation since the samples have already been sent to the CRCL and its report has also been received. At best, the respondents can only start the adjudication proceedings and proceed further in accordance with law.

26. As on date, the consignments that have already been imported cannot be considered to be prohibited goods since the Notification dated 02.4.2025 has been stayed by this Court. Those goods cannot be kept inside the godown since they are perishable in



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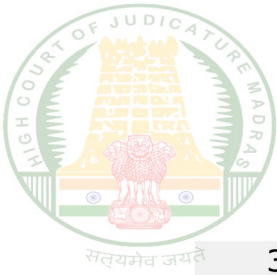
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nature. In a similar case, the Madurai Bench of this Court in ***W.P.(MD) No.17239 of 2025*** passed an order ***dated 10.9.2025*** ***[M/s.Genuine Spices Rep. by its Proprietor Shri Arshad Salam Vs. Commissioner of Customs, Custom House, New Harbour Estate, Tuticorin - 628 004]*** by directing the release of the goods by imposing certain conditions.

27. The learned Additional Solicitor General appearing on behalf of the respondents submitted that the said order dated 10.9.2025 came to be passed in a case where there was a provisional assessment.

28. On a reading of the said order dated 10.9.2025, it is not clear as to whether there was any provisional assessment in this case.

29. The learned Additional Solicitor General appearing on behalf of the respondents further submitted that for the 19 consignments, the duty payable along with interest works out to Rs.2,24,33,60,198/-. A tabulated chart has also been filed in this regard.

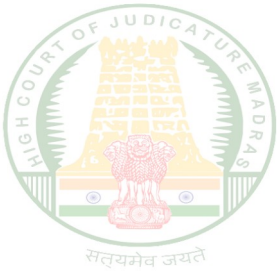


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30. Considering the facts and circumstances of this case and also considering the fact that the consignment that has been imported has a moisture content below 10% as per the law as it stands today, it can be considered only to be a roasted areca nut. The goods that have been imported cannot be treated as prohibited goods since the relevant Notification dated 02.4.2025 has already been stayed by this Court. Under such circumstances, the goods cannot be permitted to lie in some godown since they will perish. In any case, already, 10 consignments have been released based on the same FSSAI report. This Court is of the considered view that no prejudice will be caused if the remaining consignments except two are also directed to be released, however, subject to conditions.

31. In the light of the above discussions, the writ petition is disposed of in the following terms :

(i) The petitioner shall pay the applicable duty as was declared by them for the 17 consignments covering the respective Bills of Entry except two consignments, which have been rejected on different grounds;



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(ii) The petitioner shall execute a bond for the differential duty, which has been ascertained by the respondents to be Rs.2,24,33,60,198/-;

(iii) On fulfilling the above two conditions namely conditions (i) and (ii), there shall be a direction to the respondents to release the goods within a period of seven days;

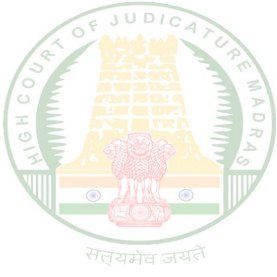
(iv) The release of goods ordered by this Court shall be considered to be a provisional release and it will be subject to final adjudication and payment of differential duty, if any, for which, the bond is directed to be executed by the petitioner; and

(v) This provisional release shall not be taken advantage of by the petitioner and the petitioner shall not raise any plea in future while recovering the differential duty and/or penalty from the petitioner.

No costs.

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Index : Yes
Neutral Citation : Yes

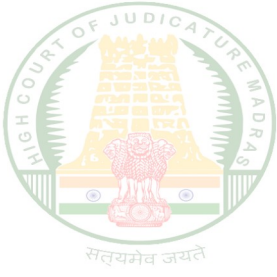


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- To
- 1.The Commissioner of Customs,
Chennai-II (Import) Commissionerate,
Custom House, No.60, Rajaji Salai,
Chennai-1.
 - 2.The Commissioner of Customs,
Chennai-III Commissionerate,
Custom House, No.60,
Rajaji Salai, Chennai-1.
 - 3.The Commissioner of Customs
(CIU), Custom House, No.60,
Rajaji Salai, Chennai-1.
 - 4.The Deputy Commissioner of
Customs GR-1 (Import),
Custom House, No.60,
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 - 5.The Assistant Commissioner of
Customs (CIU/General), Custom
House, No.60, Rajaji Salai,
Chennai-1.

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N.ANAND VENKATESH,J

RS

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