

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 31.3.2011

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THE HONOURABLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.8260 of 2011

1 ALKA TRADING [ PETITIONER ]  
REP. BY ITS AUTHORISED SIGNATORY  
A.RAZACK

Vs

1 THE COMMISSIONER OF CUSTOMS  
(IMPORTS) CUSTOM HOUSE NO.60, RAJAJI SALAI  
CHENNAI-1.

2 THE JOINT COMMISSIONER OF  
CUSTOMS GR.5A, CUSTOM HOUSE  
NO.60 RAJAJI SALAI CHENNAI-1.

3 THE DIRECTOR GENERAL OF  
FOREIGN TRADE & EX-OFFICIO  
ADDITIONAL SECRETARY TO THE GOVERNMENT  
OF INDIA MINISTRY OF COMMERCE  
NEW DELHI. [ RESPONDENTS ]

Prayer: This petition has been filed seeking for a writ of Mandamus directing the 1st and 2nd respondents herein to Release the goods viz 107 units of Old & Used Digital Multifunction Printing & Copying Machines imported vide Bill of Entry No.3031794, dated 24.3.2011 as Second Hand Capital goods in terms of para 2.17 read with definitions under 9.12 of the Foreign Trade Policy 2009-2014 without imposing any restriction in the absence of specific restriction in para 2.17 of the Foreign Trade policy and in para 2.33 of the Handbook of procedures 2009-14 and any Notification by the 3rd respondent.

For Petitioner : Mr.P.Saravanan

For Respondents : Mr.T.R.Senthilkumar  
for R1, R2  
Ms.M.NirmalaDevi  
C.G.S.C. For R3

O R D E R

Heard the learned counsels appearing for the petitioner, as well as the respondents.

2. The learned counsels appearing on behalf of the respondents had submitted that investigations are being carried on, in respect of the import of the Second Hand Digital Multifunction Print and Copying Machines. Thereafter, adjudication proceedings would be held to find out if any irregularities had been committed in the import of such goods. While so, this Court may be pleased to release the goods, if it deems it fit to do so, on the petitioner depositing 40% of the enhanced value, apart from paying the applicable rate of duty on the enhanced value. They had also submitted that the adjudication proceedings could be completed by the respondents, within a period of 15 days from the time of its commencement.

3. In view of the several orders passed by this Court, directing the respondents to release the goods in question, on certain conditions, and as the submissions made by the learned counsels appearing on behalf of the respondents have not shown any new grounds, for the modification of the earlier orders passed, in similar matters, this Court finds it fit to direct the respondents to release the goods in question, with similar conditions.

4. It is also seen that the conditions imposed by this Court, in its earlier orders, had been confirmed by a Division Bench, in its order, dated 21.10.2009, made in W.A.No.1508 of 2009 (THE COMMISSIONER OF CUSTOMS (IMPORTS), SEAPORT, CHENNAI AND ANOTHER Vs. M/S.POLYCRAFT EXPORTS (P) LTD., AND ANOTHER). Thereafter, orders have been passed in several writ petitions, including the order, dated 2.12.2010, in W.P.Nos.26964 and 27146 of 2010, directing the release of the detained goods, without any modification of the conditions impugned in the earlier orders.

5. In such circumstances, this writ petition is disposed of, directing the petitioner to deposit 25% of the enhanced value, apart from paying the applicable rate of duty on the enhanced value. On complying with the above said conditions, the respondents are directed to release the goods, in question, forthwith, with liberty to the respondents to proceed further, with the adjudication proceedings, in accordance with law. The petitioner shall co-operate, fully, in the adjudication proceedings to be conducted by the respondents. No costs. Connected M.P.No.1 of 2011 is closed.

Sd/-  
Asst. Registrar

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Sub Asst.Registrar

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To:

- 1 THE COMMISSIONER OF CUSTOMS  
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NEW DELHI.

1 cc to Mr.T.R.Senthil Kumar, Advocate, Sr.No.23248

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MRD {CO}  
TP/31.3.2011.



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