



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 9326 of 2025

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M/S ALPHA IMPEX
Versus
PRINCIPAL COMMISSIONER OF CUSTOMS & ANR.

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Appearance:
RONITH JOY(9560) for the Petitioner(s) No. 1
MR UTKARSH R SHARMA(6157) for the Respondent(s) No. 1,2

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CORAM: HONOURABLE MR. JUSTICE BHARGAV D. KARIA
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

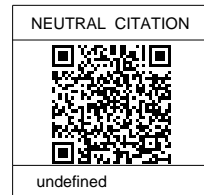
Date : 07/08/2025
ORAL ORDER

(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

1. Heard learned advocate Mr. Nachiket Dave for learned advocate Mr. Ronith Joy for the petitioner and learned Senior Standing Counsel Mr. Utkarsh Sharma for the respondents.

2. By this petition under Article 226 of the Constitution of India, the petitioner has prayed for the following reliefs:

“(a) Issue a Writ of Mandamus or any other appropriate Writ,



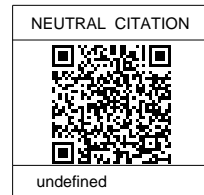
direction or order directing Respondents to release the consignment imported by the Petitioner under B/E No. 1022255 dated 21.10.2023; and "Annexure-A colly";

(b) Direct the Respondents to refund excess amount already paid by the Petitioner against the differential anti-dumping duty which amounts to Rs. 72,51,005/- (Rupees Seventy Two Lakhs Fifty One Thousand and Five only); and

(c) Issue Rule Nisi in terms of prayers at (a) and (b) above and confirm the same after hearing the parties;"

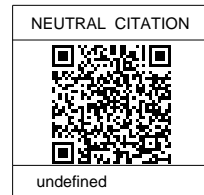
3. Brief facts of the case are as under:

3.1 The petitioner is a proprietor of M/s. Alpha Impex. The Petitioner imported consignment comprising of Iron Door Plates from China and accordingly B/E No.1022255 dated 21.10.2023 was filed by Custom House Agent-M/s. Lara Eximp Pvt. Ltd. on behalf of the petitioner along with other import



documents. The subject goods were imported at Mundra Port, Adani Port Special Economic Zone (herein referred as 'APSEZ') and were stored at M/s. OWS Warehouse Services LLP, APSEZ, Mundra.

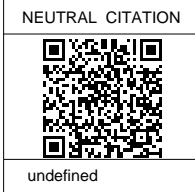
3.2 Thereafter, acting upon the intelligence that certain importers were importing Digital Offset Printing Plates through APSEZ Mundra from China by mis-declaring them as Iron Door Plates with the intent to evade the applicable Anti-Dumping duty imposed vide Notification No; 21/2020-Customs (ADD) dated 29.07.2020, the respondent-authority put on hold the goods imported by Alpha Impex vide Warehousing B/E No. 1022255 dated 21.10.2023 and examined under Panchnama



dated 30.10.2023 at the warehouse of M/s. OWS Warehouse Services LLP, APSEZ, Mundra.

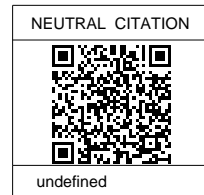
3.3 The Chartered Engineer carried out the inspection of the goods imported vide Warehousing B/E No. 1022255 dated 21.10.2023 and submitted the inspection certificate dated 31.10.2023, in which it was stated that the goods imported by the description "Iron Door Plates" were actually "Computer to Conventional Plates." The quantity of the goods imported was also certified at 35,932.65 sq. meter in the said certificate.

3.4 During the investigation by the Respondents, summon bearing CBIC-DIN-202401DDZ1000012121D dated 02.01.2024 was issued to Shri Paramvir Singh, proprietor



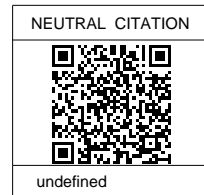
of Alpha Impex and his statement was recorded under Section 108 of the Customs Act, 1962 ['the Act' for short] on 02.01.2024. Thereafter, another summons bearing DIN 202409DDZ100001111B35 dated 11.09.2024 was issued to Alpha Impex and in continuation of his earlier statement dated 02.01.2024, statement of Shri Paramvir Singh, proprietor of Alpha Impex was again recorded under Section 108 of the Act on 19.09.2024.

3.5 It is the case of the Respondent that the Petitioner imported "Digital Offset Printing Plates" from a manufacturer based in China by misdeclaring the imported goods as "Iron Door Plate" and the alleged fraudulent plan was executed by the Petitioner under



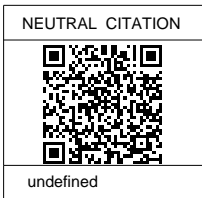
the guidance and requirement of one Shri Harikrishnan of M/s. N. R. Enterprises, based in Chennai.

3.6 Thereafter, based on such investigation, the respondent No.2 placed the goods imported vide Warehousing B/E No. 1022255 dated 21.10.2023 under seizure vide Seizure Memo bearing DIN 202401DDZ10000033728 dated 06.01.2024 under the provisions of Section 110 of the Act on the reasonable belief that they are liable for confiscation under Section 111 of the Act inasmuch as the imported goods appear to be of Chinese origin and attracting anti-dumping duty @ 0.77 USD per sq. meter and hence the Anti Dumping Duty amounting to Rs. 27,48,995/- has been evaded on the said goods.

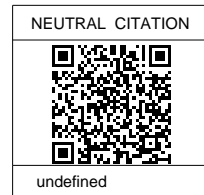


3.7 It is the case of the petitioner that, prior to the issuance of the Show Cause Notice, the petitioner has already made payment of Rs. 1,00,00,000/- i.e. Rs. 50,00,000/- vide TR-6 Challan No. Import/APSEZ/7606 dated 10.11.2023 and another Rs. 50,00,000/- vide TR-6 Challan No. Import/MPSEZ/8876 dated 26.02.2024 as security for the anti-dumping duty of Rs.27,48,995/-.

3.8 The Petitioner, vide letter dated 20.03.2024 had requested the Respondents for the provisional release of the goods imported vide Bill of Entry No. 1022555 dated 21.10.2023, which were seized vide Seizure Memo dated 06.01.2024.



3.9 It is the case of the Respondents that the investigation could not be completed within the time of six months from the date of detention and examination of the goods conducted on 30.10.2023, at APSEZ, Mundra and extension for the investigation in respect of the seized goods was sought from the Competent Authority for the issuance of show-cause notice in terms of proviso to Section 110 (2) of the Act. The Competent Authority vide letter dated 24.04.204 has granted the extension for a further period of six months for completion of investigation and issuance of Show-Cause Notice till 29.10.2024 in respect of seized goods of the petitioner in terms of the first proviso of Section 110 (2) of the Act as amended by the Finance Act, 2018.



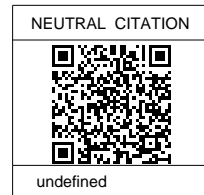
3.10 Thereafter, the request for the provisional release was accepted and the same was informed to the petitioner vide letter bearing DIN - 20240571M00000666F61 dated 20.05.2024 of the Assistant Commissioner, Import Assessment, Group IV, Custom House, Mundra, subject to the furnishing of the Bond for the full value of goods and bank guarantee amounting to Rs. 40,00,000/- (Rupees Forty Lakhs only) with auto renewal clause to cover expected liability.

3.11 Thereafter, the petitioner had again sent a letter dated 24.07.2024 to the respondents for provisional release of the live consignment stating that the terms of the release are arbitrary and that already Rs. 1,00,00,000/- has been



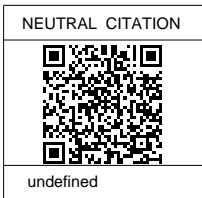
paid. However, no reply to the said letter was given by the respondents.

3.12 Thereafter, the Show Cause Notice dated 29.10.2024 bearing DIN-20241071M00000017592 (Re: GEN/ADJ/COMM/510/2024-Adjn.) was issued to the Petitioner, in regard to the goods imported vide Bill of Entry No. 1022255 dated 21.10.2023 and seized vide Seizure Memo dated 06.01.2024 as well as goods alleged to have been imported in the past 8 Bill of Entries, even though the same have been previously cleared by the Respondents and are not physically available with either the Petitioner or the Respondents.



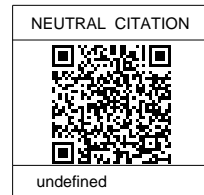
3.13 It is the case of the Respondents that the live consignment and the past 8 consignments which were imported by the Petitioner from the period 29.04.2022 to 20.02.2023 with product description as 'Iron Door Plates' were all CTCP and has calculated that for the past 8 consignments from the period 29.04.2022 to 20.02.2023, the Petitioner has evaded anti-dumping duty of Rs. 1,94,60,948/-.

3.14 That it is the case of the Petitioner that it is only after the respondents had examined the goods at Mundra port, the Petitioner had learnt that the said live consignment imported by the Petitioner contained Digital Printing Plates and that the same had been misdeclared on their documents. It is



humbly submitted that there was absolutely no intention on part of the petitioner to mis-declare the consignment to evade Customs Anti-Dumping Duty imposed vide Notification No. 21/2020-Customs (ADD) dated 29.07.2020.

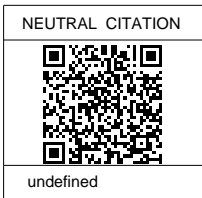
3.15 It is the case of the petitioner that the live consignment of the petitioner had been held by the respondents for almost 2 years in a bonded warehouse and was kept open in a very vulnerable condition and the quality of the goods was continuously deteriorating, and its value was increasingly depreciating. Thereafter, the petitioner had again sent a letter dated 19.02.2025 through its legal counsel to the respondents for submission of



representation for provisional release of the goods in the live consignment and for the refund of excess duty paid by the Petitioner.

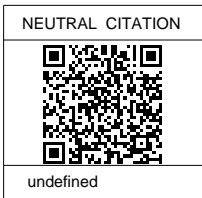
3.16 Thereafter the Respondents vide letter dated 06.03.2025 bearing DIN-20250371MO000000C6EC had informed the petitioner that the Principal Commissioner of Customs, Customs House, Mundra has fixed a date for personal hearing on 13.03.2025 in respect of the Show Cause Notice.

3.17 On 13.03.2025, it has been orally informed by the Respondent No. 1 that since the anti-dumping duty appears to have already been paid by the Petitioner for the live consignment, the consignment

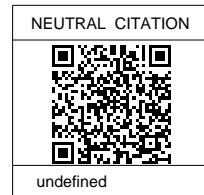


could be released within a week if respondent No. 2 do not have any objection and an intimation to that regard will be given to the counsel for the petitioner. However, when there was no response from the Respondent No. 1 for over 2 weeks, the counsel for the Petitioner wrote an email dated 27.03.2025 to the Respondent No. 1 seeking information regarding the status of the live consignment.

3.18 That on 14.04.2025, the counsel for the Petitioner again forwarded the email dated 27.03.2025 to the email address of the Respondent No. 1 seeking information regarding the status of the live consignment.



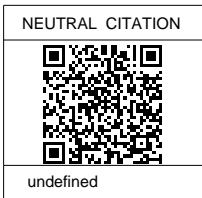
3.19 That on 21.04.2025, the Respondent No. 1 sent a letter to the counsel of the Petitioner in response to the letter dated 19.02.2025 regarding provisional release of goods imported vide BE No. 1022555 dated 21.10.2023, seized vide seizure memo dated 06.01.2024 and release of excess duty paid wherein it was stated by Respondent No. 1 that after consideration of the request of the Petitioner and deliberations with Respondent No. 2, the conditions for the provisional release are redetermined as "bond for the full value of goods and bank guarantee amounting to Rs. 12,51,005/- with auto-renewal clause to cover expected liability".



Aggrieved by the same, the petitioner approached this Court by filing present petition with the aforesaid prayers.

4. Learned advocate Mr. Nachiket Dave for the petitioner submitted that the goods in question are under seizure since October, 2023. The petitioner deposited Rs. 50 Lakh on 09.11.2023 and further deposited Rs. 50 Lakh on 26.02.2024 after issuance of the seizure memo on 06.01.2024.

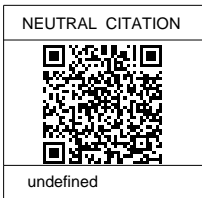
4.1 It was submitted that the petitioner is liable to pay Anti Dumping Duty of Rs. 27,48,995/- for the consignment under seizure and the petitioner may be made liable to pay the Anti Dumping Duty on the goods which is



imported prior to the consignment under seizure, subject to the order which may be passed after giving opportunity of hearing to the petitioner by the respondent-authority.

4.2 It was submitted that by the impugned order dated 21.04.2025, the condition for provisional release imposed on 20.05.2025 has been redetermined as bond for full value of goods and bank guarantee amounting to Rs. 12,51,005/- with auto renewal clause to cover the liability which may be fastened upon the petitioner.

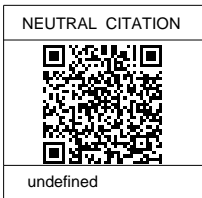
4.3 It was submitted that for the purpose of provisional release of the goods, the respondent-authority could not



have taken into consideration the entire liability but the only liability which may be arising out of the goods under seizure and to cover such liability, deposit of Rs. 1 Crore is sufficient and therefore, the respondent could not have imposed the condition to furnish the bank guarantee of Rs. 12,51,005/-.

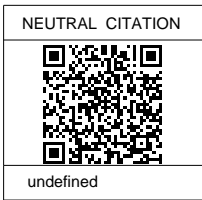
5. On the other hand, learned Senior Standing Counsel Mr. Utkarsh Sharma, under instructions, submitted that the respondent-authority shall re-consider the communication dated 21.04.2025 in view of the submissions made by learned advocate for the petitioner.

6. Having heard learned advocates for the parties it appears that the respondent-



authority, after reconsidering the conditions imposed earlier on 20.05.2024, has taken into consideration the total liability which may arise in the case of the petitioner without considering the fact that the liability arising on account of Anti Dumping Duty for the goods under seizure is only Rs. 27,48,995/- as against that, the petitioner has already deposited Rs. 1 Crore subject to further adjudication order which may be passed by the respondent-authority.

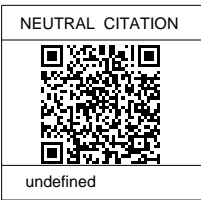
7. We are therefore, of the opinion that the condition to furnish the bank guarantee of Rs. 12,51,005/- could not have been levied by the respondent-authority and the furnishing of the bond of the full value of the goods under seizure would be



sufficient when the petitioner has already deposited Rs. 1 Crore with the respondent-authority.

8. In view of the above, following directions are issued for provisional release of the goods which are under seizure since the month of October, 2023.

(i) The petitioner shall furnish the bond of the full value of the goods under seizure. On furnishing the bond, the respondent-authority shall release the goods provisionally subject to outcome of the final adjudication order which may be passed after giving opportunity of hearing to the petitioner in accordance with law. Such exercise shall be done forthwith.



9. The petition is accordingly disposed of. Notice is discharged. The Respondent-authority shall file compliance report before this Court immediately.

(BHARGAV D. KARIA, J)

(PRANAV TRIVEDI, J)

JYOTI V. JANI