



W.P.No.50475 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.12.2025

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CORAM:

THE HONOURABLE MR. JUSTICE **V. LAKSHMINARAYANAN**

W.P.No.50475 of 2025

Urban Essentials India Pvt. Ltd.,  
represented by its Director,  
Mr.Prince Kapoor,  
Shed No.1B, DCB Warehouse Survey No.926,  
200 ft Ring Road, Ennore Express Highway,  
Madhavaram, Chennai – 600 060.

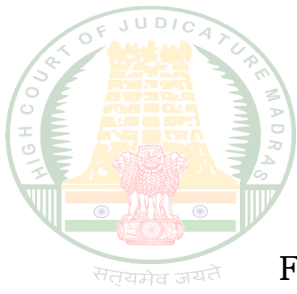
... Petitioner

Vs.

The Commissioner of Customs,  
Chennai – II (Import), Custom House,  
No.60, Rajaji Salai,  
Chennai – 600 001.

... Respondent

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondent to release the goods imported vide Bill of Entry No.9185414 dated 29.03.2025 (later refiled as B/E No.2483649 dated 05.06.2025 after the earlier B/E got purged) and Bill of Entry No.9216489 dated 31.03.2025 in terms of the learned CESTAT's Miscellaneous Order No.41108/2025 dated 22.12.2025 so as to enable the Petitioner to sell the goods before the statutory deadline of 31.12.2025 stipulated in the Medical Textiles (Quality Control) Order, 2024.



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For Petitioner

:Mr.Raghavan Ramabadran  
Assisted by  
Mr.Santhana Gopalan D &  
Mr.S.Ganesh Aravindh

For Respondent

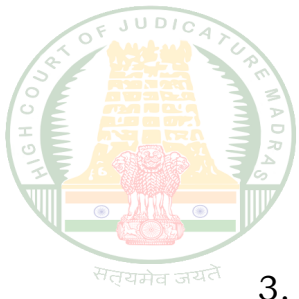
:Mr.K.Guruprasad for  
Mr.Su.Srinivasan,  
Senior Central Government Standing  
Counsel

### **ORDER**

Heard Mr.Raghavan Ramabadran for the petitioner and Mr.K.Guruprasad for Mr.Su.Srinivasan, learned Senior Central Government Standing Counsel for the respondent.

### **Facts leading to the writ petition**

2. The petitioner is an importer of feminine Hygiene products like Sanitary Napkins, Panty liners etc. The petitioner imports these products from suppliers in China. The suppliers manufacture these products using a technology which is unavailable in India. The petitioner is selling the products under the brand name "Plush". The Chinese manufacturer has filed an application with the Bureau of Indian Standards (herein after referred to as 'BIS') under the Foreign Manufacturer Certification Scheme. The products manufactured by it fell under BIS schedule-A and have to answer the description BIS standard IS 5045:2019.



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3. The petitioner imported the products, for which it seeks release of, on 29.03.2025 and 31.03.2025. The Bill of Entries for these imports were filed on the aforesaid dates.

4. An alert notice No.2 of 2025 dated 27.02.2025 was issued by the Additional Commissioner of Customs, the Custom House, Mundra. This notice stated a clarification had been sought from the Department of Promotion of Industry and Internal Trade (hereinafter referred to as 'DPIIT') regarding the applicability of Quality Control Order (hereinafter referred to as 'QCO') on imports. DPIIT had informed that the relaxation granted in the QCOs in the form of extended time lines in the MSME does not apply to import. It was stated that the relaxation is meant for obtaining BIS license under Conformity Assessment Rules of BIS and that the restriction on imports is applicable to all enterprises including MSMEs, like the petitioner, from the date of QCO.

5. In the meantime, the goods of the petitioner had arrived in India. The petitioner made repeated representations and demanded that the goods be released. As no decision was taken, the petitioner filed W.P.No.20447 of 2025. It sought for release of the goods under



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the aforesaid Bill of Entries. By an order dated 27.06.2025, this Court

directed the Commissioner of Customs to pass orders within a period of four weeks.

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6. In compliance thereof, proceedings were initiated. The petitioner attended the enquiry and submitted his representation. By an order dated 22.08.2025, the Department ordered for confiscation of the goods invoking Section 111(d) of the Customs Act read with Foreign Trade (Development and Regulation) Act, 1992 and Bureau of Indian Standards Act of 2016. The order further directed the petitioner to re-export the goods and pay a fine of Rs.10,00,000/- under Section 125(1) of the Customs Act, in lieu of, confiscation. Penalty was imposed to the tune of Rs.5,00,000/- under Section 112(a)(i) of the Customs Act on the ground that the petitioner had imported the goods knowing that it was in violation of the BIS QCOs.

7. Aggrieved by this order, the petitioner moved this court by way of a writ petition in W.P.No.37033 of 2025. This Court entertained the writ petition and directed the respondent to go by way of a counter. The respondent pleaded that the petitioner has an alternate remedy by way of an appeal under section 129(a)(i) of the Customs Act before the Customs, Excise and Service Tax Appellate Tribunal

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(hereinafter referred to as 'CESTAT'), Chennai and hence, the writ petition is not maintainable.

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8. On the merits of the case, the respondent therein pleaded that the imported goods, namely, Sanitary Napkins and Panty Liners fell under Schedule-A of the Medical Textiles (Quality Control) Order of 2024 dated 23.10.2024 as amended by the first amendment order 2025 dated 01.01.2025. In terms of this order, the respondent stated that the products should answer IS 5045:2019 and the use of BIS Standard Mark. As the imported goods did not conform to the said standard nor did they bear BIS mark, the order of adjudication came to be passed. The counter further relied upon DPIIT clarification dated 19.03.2025 as regards the application on Medical Textiles (Quality Control) Order dated 01.01.2025. It was further pleaded that the goods were shipped on 17.03.2025 and 22.03.2025 well after the commencement of Medical Textiles (Quality Control) Order dated 01.01.2025 and therefore, the extended time is not available to an importer. On these pleadings, the respondent supported the impugned order.

9. The writ petition was taken up for disposal on 31.10.2025. This Court held that in terms of the amended Medical Textiles (Quality



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Control) Order dated 01.01.2025, it is applicable only to

manufacturers and not to importers and since the petitioner was only an importer, the benefit under the order cannot be granted to the petitioner. Consequently, this court dismissed the writ petition. It also permitted the petitioner to avail the alternate remedy before the CESTAT.

10. Aggrieved by this order, the petitioner preferred an appeal in W.A.No.3706 of 2025. When the matter came up for hearing on 08.12.2025, the appellant sought permission to withdraw the appeal. The permission was granted. The Division Bench held the observations made in the writ order touching upon the merits of the matter or the interpretation of QCO issued by the Ministry of Textiles and the clarification /alert notice issued by DPIIT would have to be adjudicated by the CESTAT in accordance with law.

11. Thereafter, the petitioner moved an appeal before the CESTAT in Appeal No.C/41355/2025. Along with the appeal, it also filed an application seeking interim stay of the order-in-original and for release of goods in application No.41119 of 2025. As the proceedings had been adjourned, an application was filed in Customs



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Miscellaneous Application (EH).No.41118 of 2025 for out of turn early

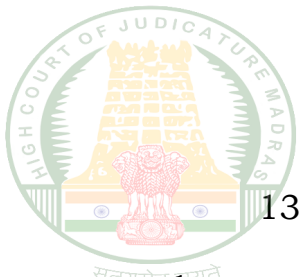
hearing of the appeal.

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12. By an order dated 22.12.2025, CESTAT allowed the application No.41108/2025 and posted the appeal for hearing on 19.01.2026. Insofar as Customs Application No.41119 of 2025, which had been filed for provisional release of goods and for stay of the order-in-original is concerned, the same was allowed in the following directions:

*“3. We thus allow the request for hearing today, at the insistence of Ld. Advocate, the MA seeking provisional release of goods in question, pending Appeal; we allow the MA No.41119 of 2025.*

*4. The main prayer in the MA is to grant interim relief for provisional release / assessment of the goods in question and also seeking stay of the operation of the impugned order pending disposal of the Appeal. At this stage, we are of the view that the Appeal requires deeper examination in the context of various statutory requirements like BIS, MSME etc., as agitated by both the sides and ends of justice would be met, if we grant stay of the operation of the impugned order pending this Appeal. Ordered accordingly. We deem it appropriate to hear the Appeal on merits on 19.01.2026. Registry to list the Appeal for final hearing on 19.01.2026.”*



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13. After an order had been passed, the petitioner approached the respondent for release of goods. This was by way of a letter dated 23.12.2025. As the same was not considered, the petitioner is before this Court by way of a mandamus.

14. Mr.Raghavan Ramabadran urged as follows:

(i) The goods of the petitioner had been tested by the South India Textile Research Association, a Centre of Excellence for Medical Textiles on 24.03.2025. By a report dated 25.03.2025, the said Centre had confirmed that the goods of the petitioner complies IS 5405:2019. In addition, he states that the manufacturer of the feminine sanitary products, namely, M/s.Kawada Zhejiang Sanitary Products Company Limited had applied to the BIS seeking license on 22.05.2022 and that the same is pending.

(ii) Secondly, he urges that the petitioner is registered as a MSME and has secured UDYAM Registration Certification in Registration No.UDYAM-TN-02-0261034 as early as on 18.12.2023. He states that the date of import for the purpose of application of the order, should be viewed as per Chapter I of the Foreign Trade Policy of 2023 in 1.05 (b) read with 2.17 of the Handbook of Procedure 2023.

(iii) He further states that originally when the Ministry of Textiles issued an order on 23.10.2024, it did not apply to importer.



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Subsequently, the second amendment order was issued on

30.07.2025 which included the word '*importer*' subject to certain

conditions as found in the schedule. He states that the petitioner being a small enterprise, the time line for implementation, for such units, had been extended till 01.04.2025. As the Bill of Landing had been placed as early as in March 2025, the petitioner is entitled to the relief sought for.

15. Above all, he states that since CESTAT has allowed the miscellaneous application filed by the petitioner in Miscellaneous Application No.41108 of 2025 on 22.12.2025, the petitioner is entitled to seek release of the subject goods.

16. Per contra, Mr.K.Guruprasad for Su.Srinivasan submits that as the goods related to feminine hygiene products, if they did not answer the regulations of BIS, it would affect the public health. He states that the petitioner is only a trader as classified under MSME Act and therefore, would not be entitled to the extended time line granted up till 01.04.2025. In any event, he states that the date of arrival of the products is after 01.04.2025 and therefore, even if the petitioner satisfies that it is a small and micro enterprise, it is not entitled to the benefit of the order. He points out that the



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manufacturer had merely filed an application for the BIS and has not yet got the registration and hence, even on that ground, the petitioner is not entitled to any relief. He urges that CESTAT had not ordered interim release of the products and that the writ petition itself has misconceived facts and therefore, deserves to be dismissed.

17. I have carefully considered the submissions of both sides and have gone through the records.

18. At the outset, I have to point out, I am only deciding whether the petitioner is entitled for release of goods on the basis of CESTAT order. The reference of various orders is not intended to be final, as the appeal, is still pending before the jurisdictional Tribunal. The petitioner has moved this writ petition on account of limitation placed in the second amendment order dated 30.07.2025. In terms of that order, a manufacturer or an importer is permitted to sell, display or offer to sell, the declared stock only up till 31.12.2025.

19. The papers reveal that the Ministry of Textiles in exercise of the powers vested in it under sections 16, 17 and 25(3) of the BIS Act of 2016 issued the Medical Textiles (Quality Control) Order of 2024. This QCO covers several products including Sanitary Napkins and



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Panty Liners. This QCO demands that the products should conform to

Indian Standard IS 5405:2019 and should bear a standard mark

under license from the Bureau. This is in accordance with the Scheme

-I of Schedule II to the BIS (Conformity Assessment) Regulation of

2018. QCO was directed to come into force from 01.01.2025.

Subsequently, the Ministry of Textiles amended this QCO by way of

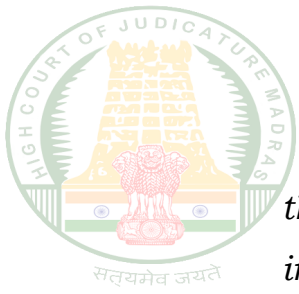
two amendments dated 01.01.2025 and 30.07.2025. For ready

understanding, the two provisos which granted certain exemptions are

extracted hereunder:

*“Provided that if any manufacturer certified by the Bureau or any manufacturer who has applied for certification to the Bureau for the goods of articles covered under Schedule A of the Principal Order, declares prior to the commencement of the timeline of implementation as mentioned in this Order, under sub-section (4) of section 18 of the Bureau of Indian Standards, Act 2016 (11 of 2016) its old stock products without Bureau of Indian Standards Mark manufactured or imported prior to such commencement, such manufacturer shall be permitted to sell or display or offer to sell such declared stock up to 30<sup>th</sup> June, 2025.”*

*“Provided that where any manufacturer certified by the Bureau, or any manufacturer who has applied to the Bureau for certification in respect of the goods or articles specified in column (2) of Schedule A to the principal Order, declares prior to the date specified in column (5) of*



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*the said Schedule that their old stock, manufactured or imported prior to such date, does not bear the standards Mark, such manufacturer or importer shall be permitted to sell, display or offer to sell the declared stock up to 31<sup>st</sup> December, 2025.”*

20. A careful perusal of the same shows that the first amendment order was issued on 01.01.2025. It only enabled a manufacturer to sell or display or offer to sell the declared stocks up till 30.06.2025. By an amendment on 30.07.2025, in addition to the word ‘manufacturer’, the word ‘importer’ had been inserted. Insofar as schedules are concerned, it remained unaffected.

21. That the petitioner is an importer is not in dispute. UDYAM Registration granted to the petitioner as a small enterprise is also not in dispute. That being the situation, the petitioner, being an importer and a small enterprise as per the MSME Act, would in my view, be entitled to the benefit of the amended order dated 30.07.2025. In otherwords, the petitioner would be entitled to sell, display or offer to sell the declared stocks up till 31.12.2025.

22. Mr.Guruprasad urged that the petitioner being a trader, is not entitled to the benefit of extended time line granted to the MSME



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as it has been clarified by the Government of India in O.M. dated

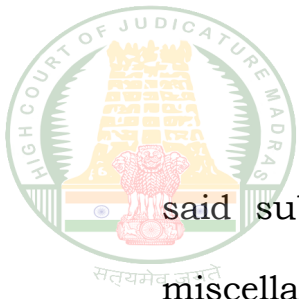
01.09.2021.

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23. A careful perusal of the OM shows that certain traders had approached the MSEFC's for obtaining the benefit of delayed payment under the Act. The office of the Development Commissioner (MSME) clarified that the benefit would be applicable only to Priority Sector Lending Only. On this basis, he pleads that the petitioner is not entitled to the benefit of the extended time line granted under the second amendment order date d30.07.2025.

24. I am not able to agree with the said submission. OM cannot replace a statutory notification issued by the Ministry of Textiles. The Ministry of Textiles was well aware that micro and small enterprises are covered by the original order. The order does not restrict the same only to MSME in the form of manufacturers alone. It states that the order applies to small and micro enterprises. The petitioner, being a small enterprise, as seen from the UDYAM Registration, this submission deserves rejection and it is accordingly rejected.

25. Though Mr.Guruprasad pleaded that CESTAT had not passed an order directing release, I am not in a position to agree to the



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said submission. A perusal of the order dated 22.12.2025 shows miscellaneous application No.41119 of 2025 came to be allowed by Miscellaneous order No.44108 of 2025. The order has been extracted in extenso above. Furthermore, the order-in-original imposing penalty and fine as well as confiscation of the goods have been kept in abeyance pending disposal of the appeal.

26. It is here that Section 125 of the Customs Act is relevant. Under Section 125 of the Customs Act, the adjudicating officer has the option to give to the owner of the goods, even if the importation or exportation of the goods are prohibited under the Customs Act or any other law for the time being in force, the option to pay a fine in lieu of confiscation. Hence, though Mr.Raghavan Ramabadran pleads that the petitioner is entitled to release the goods unconditionally, I am not in agreement with the same.

27. A combined reading of the QCOs points out the following:

- (i) it does not apply to a manufacturer certified by BIS or
- (ii) to a manufacturer who has applied to the Bureau for certification of the goods specified in Scheme II of the Schedule A and



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(iii) declares that the whole stock available with the

manufacturer or an importer, prior to 01.04.2025, does not bear the standard mark

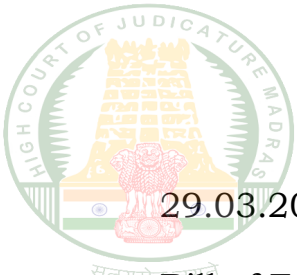
(iv) then such a manufacturer or importer shall be permitted to sell, display or offer to sell declared stock up till 31.12.2025.

28. It is not in dispute that the manufacturer of sanitary napkins and panty liners has filed an application for certification with the BIS. The orders were placed for the stocks prior to 01.04.2025. The petitioner is a MSME. Consequently, the petitioner would be entitled to the benefit of release as directed by CESTAT.

29. Further, in terms of Article 261 of the Constitution of India, “full faith and credit” has to be given to judicial orders. CESTAT is a quasi judicial authority. It has kept the order-in-original in abeyance and had allowed the application. Hence, the respondent has to comply with the same.

30. In the light of the above discussion, the writ petition is ordered on the following terms:

(i) there shall be a direction to the respondent to forthwith release the goods imported under Bill of Entry No.9185414 dated



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29.03.2025 (later refiled as B/E No.2483649 dated 05.06.2025) and

Bill of Entry No.9216489 dated 31.03.2025.

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(ii) the release is subject to the petitioner depositing a sum of Rs.15,00,000/- directly to the account of the respondent within 24 hours from today. The said deposit shall be without prejudice to the rights of the parties.

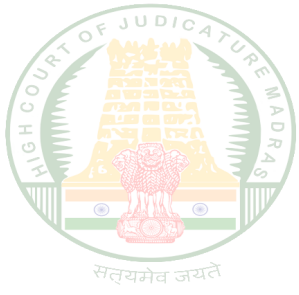
(iii) In case of failure to deposit the aforesaid amount, the petitioner will not be entitled for the benefit of this order. None of the observations in this order would in any manner influence the CESTAT while disposing of statutory appeal No.C/41355/2025.

No costs.

26.12.2025

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Neutral Citation : Yes/No



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To  
The Commissioner of Customs,  
Chennai – II (Import), Custom House,  
No.60, Rajaji Salai,  
Chennai – 600 001.



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**V. LAKSHMINARAYANAN. J,**

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