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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-13643-2024 (O&M)

Date of Decision: 8th September, 2026.

M/S SAB TERA ENTERPRISES

.....Petitioner(s)

V/s

CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS AND OTHERS

.....Respondent(s)

CORAM: **HON'BLE THE CHIEF JUSTICE**
 HON'BLE MR. JUSTICE ROHIT KAPOOR

Present Mr. Saurabh Kapoor, Advocate,
 Ms. Muskaan Gupta, Advocate,
 Ms. Tanya Kumar, Advocate and
 Mr. Vivek Sharma, Advocate, for the petitioner(s).

Mr. Ajay Kalra, Senior Standing Counsel,
for respondents No.1 to 3.

Ms. Tarannum Madan, Advocate,
for respondent No.4.

Mr. Abhinav Sood, Advocate,
Ms. Anmol Gupta, Advocate, and
Ms. Mehndi Singhal, Advocate,
for respondent No.5.

ASHWANI KUMAR MISHRA, CHIEF JUSTICE (Oral)

1. The petitioner has approached this Court seeking release of imported goods comprising of "Low Alloy Steel Scrap" imported vide Bill of Entry Nos.9494291 dated 01.01.2024 and 9515603 dated 03.01.2024, lying at ICD-Adani, Kila Raipur, Ludhiana (Respondent No.5). The grievance raised is that despite clearance by the Customs authorities and issuance of detention certificates, the goods have not been released on



account of disputes amongst the respondents regarding waiver of detention, demurrage and issuance of delivery orders.

2. The undisputed facts of this case are that the petitioner imported two consignments of Low Alloy Steel Scrap and filed Bills of Entry on 01.01.2024 and 03.01.2024. The goods were detained by Customs authorities on 24.01.2024 and thereafter seized on 14.03.2024 for detailed examination under Section 110 of the Customs Act, 1962. Ultimately, reassessment was carried out and the petitioner paid the requisite enhanced customs duty.

3. It is evident from the record that after conclusion of proceedings, the Customs authorities issued communications and detention certificates directing waiver of detention charges and demurrage for the period during which the goods remained detained under Customs control. Such detention certificates dated 06.05.2024 were addressed both to the Shipping Line and the Custodian.

4. Learned counsel for the petitioner contends that despite repeated representations and service of detention certificates, respondent No.4 failed to issue delivery orders and consequently physical possession of the goods has not been handed over. Reliance is placed upon the provisions of the Handling of Cargo in Customs Areas Regulations, 2009 and the Sea Cargo Manifest and Transshipment Regulations, 2018.

5. Learned counsel for the petitioner submits that the respondents failed to challenge the detention certificates dated 06.05.2024 before the Appellate Authority, and therefore, the said certificates have attained finality. It is further submitted that, in an identical matter bearing CWP No.



13014 of 2024, respondent No. 4 had challenged the detention waiver certificate before the Appellate Authority; however, the appeal was dismissed vide order dated 03.02.2026.

6. Notice of motion in the present Writ Petition was issued on 30.05.2024. On 03.10.2024, this Court has passed the following orders:-

“Learned counsel for the petitioner submits that the goods are of perishable nature and required to be released. It is informed that the petitioner has already paid full customs/excise duty. However, considering the facts and circumstances of the case, direction is issued to release the goods subject furnishing of surety bonds equivalent to the value of the goods. On furnishing the said bonds, the goods shall be released forthwith.

Adjourned to 28.01.2025.

In the meantime, reply be filed in the Registry.”

7. The petitioner has also filed an application under Article 215 of the Constitution of India, vide CM-1272-CWP-2025, seeking initiation of contempt proceedings against the respondents for non-compliance of order dated 03.10.2024 and to direct the respondents to release the imported goods, which is pending adjudication before this Court.

8. Learned counsel appearing for respondent No.4 submits that detention charges and container charges remain payable and, therefore, delivery orders could not be issued. Learned counsel appearing for respondent No.5 submits that release could not be effected in absence of delivery orders from the Shipping Line.

9. Having heard learned counsel for the parties, we find the stand taken by respondents No.4 and 5 to be wholly untenable.



10. Regulation 6(1)(l) of the Handling of Cargo in Customs Areas Regulations, 2009 specifically provides that no rent or demurrage can be charged in respect of goods detained by Customs authorities. Likewise, Regulation 10(1)(l) of the Sea Cargo Manifest and Transhipment Regulations, 2018 prohibits recovery of rent or demurrage in respect of seized or detained goods.

11. The record further reveals that the goods remained under detention at the instance of the Customs Department. Once the proceedings admittedly culminated in reassessment and payment of duty, there existed no justification to continue withholding physical delivery of the goods.

12. A circular/instruction, in this regard, has already been issued by the Chief Commissioner of Central Excise, Delhi Zone on 22.08.2006, pursuant to an order passed by this Court in CWP-9882-2006, as per which the first appraisalment of imported goods must take place within 48 hours and the assessment thereafter be concluded within 24 hours. In case of second appraisalment, the assessment can be done within 24 hours of filing of bill of entry and the examination should be completed within 48 hours. The Circular further provides that the importer must be intimated in writing that the goods in question could be shifted to bonded warehouse under Section 49 of the Customs Act, 1962 and if the importer does not wish to avail this facility, then the goods could incur demurrage.

13. Accordingly, the authorities, having been apprised of the import vide Bill of Entry, were expected to have concluded the proceedings within the timelines indicated in the circular dated 22.08.2006. This, however, was not done. Even after the imported goods were examined on



24.01.2024, the re-assessment orders were passed on 14.03.2024. The additional duty was paid by the petitioner, whereafter the detention memo making reference to issue of detention waiver certificate was also issued on 06.05.2024. Notwithstanding such orders having been passed, the imported goods were not released by the respondents.

14. We are of the considered view that, the petitioner cannot be penalized for delays which are entirely attributable to the respondents. Any *inter se* dispute between the Customs authorities, the Shipping Line and the Custodian cannot become a ground to deny delivery of imported goods after completion of Customs formalities.

15. The conduct of respondents No.4 and 5 in withholding release despite issuance of detention certificates and despite repeated requests made by the petitioner, is arbitrary and unsustainable in law.

16. Accordingly, this Writ Petition succeeds and is **allowed**. A writ of *mandamus* is issued directing respondents No.4 and 5 to forthwith release and physically hand over the imported goods covered by Bill of Entry Nos. 9494291 dated 01.01.2024 and 9515603 dated 03.01.2024 to the petitioner within a period of two weeks from the date of receipt of a certified copy of this order. Respondent No.4 shall issue all requisite delivery orders within three days from the date of uploading of this order.

17. It is further clarified that the petitioner shall not be liable to pay any detention charges, container detention charges, ground rent or demurrage for the period during which the goods remained detained under the orders of the Customs authorities, as certified in the detention

certificates issued by respondent No.3. Liability, if any, shall be resolved *inter se* amongst the respondents in accordance with law.

18. Any claim or dispute amongst respondents No.1 to 5 shall remain open for adjudication in appropriate proceedings.

19. Pending application(s), if any, shall also stand disposed of.

[ASHWANI KUMAR MISHRA]
CHIEF JUSTICE

[ROHIT KAPOOR]
JUDGE

September 8, 2026
Ess Kay/mohit goyal

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>