VERDICTUM.IN

Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.45612 of 2026
CNR:{HCMA012680362026}
and W.M.P.No.51214 of 2026

Case QR

S.Santhosh Kumar
S/o.Latha S.
No.27/89A, 1st Floor, PJL Towers
Periyar Pathai, Choolaimedu,
Chennai - 600 094.

Petitioner(s)

Vs

1. The Union of India
Through Secretary, Ministry of Finance,
Department of Revenue, Having his office
at Room No.14102, Kartavya Bhawan I,
New Delhi - 110 011.

2.The Director General of Foreign Trade,
having his office at Vanijya Bhawan,
A Wing, 16 Akbar Road,
New Delhi - 110 011.

3.The Commissioner of Customs
Chennai Custom House,
Rajaji Salai, Chennai.

Respondent(s)

WEB COPY

https://www.mhc.tn.gov.in/judis

VERDICTUM.IN

WEB COPY

Order QR

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus (a) directing the respondents to take necessary steps and make a detailed inquiry against such officers who had permitted import under DFIA without first recording satisfaction of compliance with the condition of actual use and value cap mentioned in the relevant SION, and to issue Show Cause Notices against all importers/exporters/transferees, who had been beneficiaries of such duty free import under DFIA; (b) directing the respondents to take necessary steps to ensure that henceforth no import under DFIA is permitted, without first recording satisfaction of compliance with the condition of actual use and value cap mentioned in the relevant SION; (c) declaring that the CESTAT has no jurisdiction in interpreting Foreign Trade Policy matters and any interpretation by CESTAT is not binding on the DGFT authorities; and (d) declaring that notwithstanding the provisions of Paragraph 4.55A and Paragraph 4.55B of Foreign Trade Policy, only Respondent No. 2, and not the RoDTEP Committee, is the final authority in deciding the eligibility criteria of categories of exporters to claim benefits under Scheme for Remission of Duties and Taxes on Export Products (RoDTEP).

For Petitioner(s): Ms.Pooja Thorat
for Mr.S.Vedhavel

For Respondent(s): Mr.A.Kumaraguru,
Senior Panel Counsel
for R1 and R2

Mr.M.Santhanaraman,
Senior Panel Counsel
for R3

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

https://www.mhc.tn.gov.in/judis

VERDICTUM.IN

WEB COPY

A 26-year-old Chennai resident has filed this public interest petition seeking orders to curb imports under the Duty Free Import Authorisation (DFIA) scheme. The petitioner seeks a further direction to the customs authorities to verify compliance with actual user conditions and value caps prior to granting duty-free clearances. Additionally, the petition seeks this court to declare that rulings by the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) do not bind the Directorate General of Foreign Trade (DGFT) on policy matters, and to confirm that the DGFT, rather than the Remission of Duties and Taxes on Export Products (RoDTEP) Committee, retains sole authority over exporter eligibility under the RoDTEP scheme.

2.1. The case in brief is that DFIA is a post-export scheme under Chapter 4 of the Foreign Trade Policy ("FTP"). It is issued for products for which Standard Input Output Norms ("SION") are notified. The authorisation is transferable. The holder can import inputs duty free.

https://www.mhc.tn.gov.in/judis

VERDICTUM.IN

Order QR

WEB COPY

2.2. By Public Notice No.41 dated 02.11.2016, the Director General of Foreign Trade ("DGFT") amended the SION for certain food products. The said notice added value caps for some inputs and an actual user condition for others. It is pleaded that importers ignore these conditions, as such conditions cannot be imposed by a public notice and can be imposed only by a notification in the Official Gazette.

2.3. The petitioner relies on two orders of the Customs, Excise and Service Tax Appellate Tribunal ("CESTAT"). In *Frunuts Exim LLP*, Final Order No.85184/2026, dated 27.01.2026, the Mumbai Bench allowed duty free import of dried cranberries. In *Global Exim*, Final Order No.75721/2026, dated 18.06.2026, the Kolkata Bench allowed duty free import of citric acid. Both Benches held that the value cap and the actual user condition, imposed only by public notice, could not be used to deny the exemption. They relied on a decision of the Supreme Court in *Viraj Impex Pvt. Ltd. v. Union of India*[1], and on decisions of the Bombay and Rajasthan High Courts.

1 *2026 INSC 80*

https://www.mhc.tn.gov.in/judis

VERDICTUM.IN

Order QR

WEB COPY

2.4. The second grievance aired by the petitioner concerns the RoDTEP. Notification No.70/2023 extended RoDTEP to exports by Advance Authorisation holders, Export Oriented Units (EOUs) and Special Economic Zone (SEZ) units. It did not mention DFIA. The petitioner asserts that DFIA exporters still claim RoDTEP and so get a double benefit. He points out that, on a reference, the DGFT informed the Central Board of Indirect Taxes and Customs ("CBIC") that DFIA exports are not eligible for RoDTEP. CBIC passed this on to its field officers by letter F.No.CBIC-140602/4/2026-DBK-CBIC, dated 07.09.2026.

2.5. In this backdrop, the present writ petition is filed for the reliefs, referred to supra.

3. Learned counsel for the petitioner relied on Sections 9 and 19 of the Foreign Trade (Development and Regulation) Act, 1992 ("*the FTDR Act*") and on Paragraphs 1.03, 2.04 and 2.58 of the FTP. She argued that the DGFT can lay down procedures, including value caps and actual user conditions, and that its decision on policy is final.

https://www.mhc.tn.gov.in/judis

VERDICTUM.IN

WEB COPY

4. A public interest litigation is meant for those who cannot reach the Court themselves. It is not a tool for settling policy or for reopening decisions of other forums. The Court must be satisfied that the petitioner is acting in good faith, that the facts are pleaded with care, and that the relief sought is one the Court can properly grant.

5. The present petition does not meet the aforesaid standard. The petitioner's own affidavit says he learnt of the alleged misuse from reports on the internet. He did not mention the name of any importer, nor any bill of entry is cited, or the amount of alleged loss is stated. The statement that there are "*regular imports*" at the Port of Chennai is not backed by a single instance. He admits that he made no representation to any respondent. The two Tribunal orders he relies on arose at Mumbai and Kolkata, not at Chennai.

6. A writ of mandamus needs a clear legal duty. We cannot direct officers to enforce a condition whose legal force is itself in serious doubt. If the Central Government or the DGFT is of the opinion that such conditions are needed to protect revenue, the remedy is simple. They can issue the proper notification. Whether to

https://www.mhc.tn.gov.in/judis

VERDICTUM.IN

Order QR

WEB COPY

do so or not is a matter of policy. This Court cannot direct the executive to frame it.

7. The prayer for an inquiry against officers is also unsustainable. No officer is named in the petition. The prayer for show cause notices to "*all importers*" is much wider. Recovery of duty is governed by the Customs Act, 1962. It needs a notice to a particular person, on particular facts, by the proper officer. A roving inquiry against unnamed persons cannot be ordered in a public interest petition.

8. The orders passed by the Tribunal orders are judicial orders. They were passed on appeals under Section 129A of the Customs Act, in cases where the question was whether a customs exemption was available. In deciding that question, the Tribunal had to read the FTP. The Revenue was a party before the Tribunal. If it felt aggrieved, Chapter XV of the Customs Act gave it a remedy by way of appeal. The Union of India is the first respondent here. It has not said it is aggrieved by those orders. The petitioner, who is a stranger, cannot do what the Union of India does not chose to do.

https://www.mhc.tn.gov.in/judis

VERDICTUM.IN

WEB COPY

9. The importers in the cases before the Tribunal, referred to supra, are not before us. A declaration that CESTAT can never interpret the FTP is far too wide. The Tribunals have jurisdiction under the Customs Act. Paragraph 2.58 of the FTP, which makes the DGFT's interpretation final, is a policy provision. It cannot take away a jurisdiction that Parliament has given.

For the aforesaid reasons, the writ petition is dismissed. There is no order as to costs. Connected W.M.P.No.51214 of 2026 is closed.

(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)
11.11.2026

Index : Yes/No
Neutral Citation : Yes/No
sasi

To:

1. The Secretary, Union of India
   Ministry of Finance, Department of
   Revenue, Having his office at Room
   No.14102, Kartavya Bhawan I, New Delhi -
   110 011.

2. The Director General of Foreign Trade,
   having his office at Vanijya Bhawan,
   A Wing, 16 Akbar Road,
   New Delhi - 110 011.

3. The Commissioner of Customs
   Chennai Custom House,

https://www.mhc.tn.gov.in/judis

VERDICTUM.IN

Order QR

Rajaji Salai, Chennai.

WEB COPY

https://www.mhc.tn.gov.in/judis

VERDICTUM.IN

WEB COPY

Order QR

THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

(sasi)

W.P.No.45612 of 2026

11.11.2026

https://www.mhc.tn.gov.in/judis