IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-08-2026

CORAM

THE HON'BLE MR.JUSTICE HEMANT CHANDANGOUDAR

WP No. 872 of 2026
and WMP.Nos. 1059, 1064 and 1070 of 2026

M/s. Bhansali Chematics Private Limited
Represented by its Director
Shri Akhil Bhansali,
3rd Floor, No.160-B, 3rd Main Road,
Industrial Town, Rajaji Nagar,
Bangalore -560 010

..Petitioner(s)

Vs

1. The Senior Intelligence Officer
   Directorate of Revenue Intelligence,
   Trichy Regional Unit, B.-wing, II Floor,
   Custom Commissionerate Building,
   No.1, Williams Road, Trichy-620 001

2. The Commissioner of Customs,
   Chennai II Commissionerate,
   Customs House, No.60 Rajaji Salai,
   Chennai-600 001

3. The Deputy Commissioner of Customs
   (Group-I) Customs House,
   No.60 Rajaji Salai,
   Chennai-600 001

..Respondent(s)

Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of writ of certiorari, calling for the records pertaning to the impugned seizure memorandum dated 26.12.2025 in F.No.DRI/CZU/TRY/VIII/48/ENQ-01/INT-04/2025 issued by the 1st Respondent and quash the same.

For Petitioner: Mr. Hari Radhakrishnan

For Respondents Mr.Rajendran Raghavan, SPC -R1
Mr.S.M.Deenadayalan, SPC – R2 & R3

ORDER

The petitioner has filed this writ petition challenging the seizure memo dated 26.12.2025 issued by the first respondent under Section 110 of the Customs Act, 1962.

2. The principal issue that arises for consideration is whether the product imported by the petitioner, namely Vital Wheat Gluten, is entitled to the benefit of exemption from payment of Basic Customs Duty under the Duty Free Import Authorisation (DFIA) Scheme.

3. The petitioner states that it is engaged in the business of importing and trading food additives and food ingredients. In the ordinary course of its business, it imported goods described as “Vital Wheat Gluten” under Bill of Entry No.5680611 dated 13.11.2025. The petitioner claimed exemption from payment of Basic Customs Duty on the strength of Duty Free Import Authorisation (DFIA) No.3411005881 dated 30.12.2024. According to the petitioner, the said authorisation permits duty-free import of wheat flour.

4. Earlier, the first respondent had issued a seizure notice dated 17.11.2025, which was challenged before this Court in W.P.No.46271 of 2025. By order dated 15.12.2025, this Court directed the first respondent to afford the petitioner a personal hearing, consider the explanation submitted by the petitioner as to why the seizure notice was arbitrary, illegal and without authority of law, examine the judicial precedents relied upon by the petitioner, and thereafter pass appropriate orders regarding the proposed action. Pursuant to the said directions, the first respondent heard the petitioner and thereafter issued the impugned seizure memo dated 26.12.2025.

5. Mr. Hari Radhakrishnan, learned counsel appearing for the petitioner, advanced the following submissions:

(i) The impugned seizure memo is founded entirely upon Public Notice dated 02.11.2016, by which the Standard Input Output Norms (SION) were amended. Under the amended SION relating to the export product "Biscuits", the expression "Maida/Atta/Flour" was to be read as "Wheat Flour" (ITC HS Code 11010000).

(ii) However, the said Public Notice dated 02.11.2016 was suspended indefinitely by the competent authority on 26.08.2025. Therefore, on the date when the petitioner imported the goods, the said Public Notice was no longer in force. Consequently, the impugned seizure memo, which is based entirely on a suspended Public Notice, is arbitrary and unsustainable.

(iii) Learned counsel further submitted that the question whether wheat gluten is covered by the description "wheat flour" for the purpose of the DFIA Scheme is no longer res integra. The issue has already been examined by the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) as well as by this Court, and it has been consistently held that wheat gluten is nothing but wheat flour having specific technical characteristics and, therefore, is entitled to the benefit available under the DFIA Scheme.

(iv) In support of the said submission, reliance was placed upon the judgment of this Court in ***W.P.Nos.17912 of 2023 etc., batch, dated 15.10.2025.***

(v) Learned counsel also relied upon Circular dated 24.07.2025 issued by the respondent department. The Circular clarifies that, under the DFIA Scheme, correlation of technical characteristics, quality and specifications between the imported input and the exported product is required only in respect of inputs specified in paragraph 4.29 of the Foreign Trade Policy, 2023. Since wheat flour and wheat gluten do not fall within paragraph 4.29, no such technical correlation is required to be established. Therefore, according to the petitioner, the respondents could not have denied the benefit on the ground that wheat gluten is different from wheat flour.

6. Per contra, the learned Senior Panel Counsel appearing for the first respondent submitted that the petitioner is not entitled to the benefit of the DFIA Scheme. According to him, Public Notice dated 02.11.2016 recognises only wheat flour for the purpose of the exemption and not wheat gluten.

7. He further submitted that the power of seizure under Section 110 of the Customs Act is exercised on the basis of the officer's "reason to believe" that

the goods are liable to confiscation, and ordinarily such action should not be interfered with in exercise of writ jurisdiction unless it is shown that the seizure suffers from procedural illegality or lack of jurisdiction. Reliance was placed upon the judgment of the Hon'ble Supreme Court in S***hento Varghese v. Julfikar Husen and Others [(2024) Supreme (SC) 454].***

8. Learned Senior Panel Counsel further submitted that wheat flour and wheat gluten are commercially and technically distinct products. According to him, wheat gluten is obtained by processing wheat flour through aqueous separation whereby starch and other constituents are removed. Wheat gluten is available either in the form of a whitish viscous paste (moist gluten) or as a cream-coloured powder (dry gluten). He submitted that wheat gluten is a value-added product having considerably higher commercial value than wheat flour. While wheat flour enjoys exemption from customs duty, wheat gluten attracts customs duty at the rate of 30%. Therefore, according to the respondents, wheat gluten cannot be treated as wheat flour for the purpose of claiming exemption under the DFIA Scheme.

9. I have carefully considered the rival submissions and perused the materials placed on record.

10. It is not in dispute that the petitioner imported Vital Wheat Gluten and claimed exemption from payment of Basic Customs Duty under the DFIA Scheme. The question whether wheat gluten is covered by the expression "wheat flour" for the purposes of the DFIA Scheme has already been considered by a Coordinate Bench of this Court in W.P.Nos.17912 of 2023 etc., batch, dated 15.10.2025.

11. While deciding the said issue, the Coordinate Bench examined the decisions of the ***CESTAT, Ahmedabad in Uni Colloids Impex Pvt. Ltd. v. Commissioner of Customs, Ahmedabad and Unibourne Food Ingredients LLP v. Commissioner of Customs, Mundra***. The relevant portions of those decisions have been extracted in the judgment of the Coordinate Bench.

12. The CESTAT, after considering the technical literature, the clarification issued by the Ministry of Food Processing Industries, and the clarification issued by the Joint Director General of Foreign Trade, held that wheat gluten is nothing but wheat flour with specific technical characteristics, and therefore qualifies for exemption under the DFIA Scheme. The Tribunal

further held that the issue had already been settled by earlier appellate orders which had attained finality and could not be ignored by the adjudicating authority.

13. In ***Unibourne Food Ingredients LLP,*** the Tribunal reiterated the same principle and held that wheat gluten is covered by the description "wheat flour" for the purpose of the DFIA Scheme. The Tribunal also held that there is no requirement under the DFIA Scheme that the ITC (HS) Code of the imported goods should exactly correspond with that mentioned in the authorisation, so long as the description, quantity and value are satisfied.

14. After considering the aforesaid decisions, the Coordinate Bench of this Court concluded that wheat flour and wheat gluten fall under the same description for the purpose of the DFIA Scheme. Consequently, it held that the proceedings initiated by the Customs Department, which proceeded on the contrary assumption, could not be sustained.

15. It is also relevant to note that the Commissioner of Customs (Appeals-II), by order dated 14.07.2021, after considering Public Notice dated 02.11.2016, held that wheat gluten is entitled to exemption under the DFIA

Scheme. According to the petitioner, the said order, the decisions of the CESTAT and the judgment of the Coordinate Bench have all attained finality. Significantly, the respondents have not disputed the existence of these decisions.

16. It is also not in dispute that the imported goods have already been provisionally released upon the petitioner furnishing a bank guarantee covering the differential duty.

17. It is true that this Court would not ordinarily interfere with a seizure effected under Section 110 of the Customs Act. However, the power of seizure can be exercised only when the proper officer has *reason to believe* that the goods are liable to confiscation. Such belief must be based on relevant and legally sustainable material. It cannot be founded on material which has ceased to have legal force or which is contrary to binding judicial decisions.

18. In the present case, the respondents have proceeded on the assumption that wheat gluten is different from wheat flour and, therefore, not entitled to the benefit of the DFIA Scheme. However, this very issue has already been decided by the CESTAT, affirmed by the Coordinate Bench of this Court, and accepted

by the Commissioner of Customs (Appeals-II). The respondents have not placed any material to show that these decisions have been stayed or set aside.

19. Further, the principal basis for issuing the impugned seizure memo is the Public Notice dated 02.11.2016. Admittedly, the said Public Notice had been suspended on 26.08.2025, prior to the import made by the petitioner. Once the public notice stands suspended, it ceases to operate prospectively. Therefore, the respondents could not have relied upon the said Public Notice to form the belief that the goods were liable to confiscation.

20. The Circular dated 24.07.2025 also clarifies that, in cases such as the present one, there is no requirement to establish a technical correlation between the imported goods and the export product. Thus, even the department's own Circular does not support the stand taken by the respondents.

21. The question is not whether wheat gluten is commercially different from wheat flour or whether it attracts a different rate of customs duty. The real issue is whether wheat gluten falls within the description of the input permitted under the DFIA Scheme. Once that issue has already been settled by binding

judicial decisions and the applicable policy, the commercial differences between the two products become irrelevant.

22. In these circumstances, this Court is of the view that there was no legally sustainable material before the first respondent to form the requisite *reason to believe* that the imported goods were liable to confiscation. Consequently, the assumption of jurisdiction under Section 110 of the Customs Act is unsustainable, and the impugned seizure memo is liable to be quashed.

23. It is also not in dispute that the original exporter, namely Koshambh Multitred Pvt. Ltd., had validly transferred the DFIA authorisation in favour of the petitioner. The transferred authorisation specifically permitted import of, inter alia, wheat flour (ITC HS Code 11010000).

24. In the light of the binding decisions of the CESTAT, the judgment of the Coordinate Bench of this Court, the order passed by the Commissioner of Customs (Appeals-II), the clarification contained in Circular dated 24.07.2025, and the fact that the Public Notice relied upon by the respondents had already been suspended, this Court is of the considered opinion that the first respondent had no legally sustainable material to form the requisite reason to believe that

the imported goods were liable to confiscation. Consequently, the impugned seizure memo cannot be sustained.

25. Accordingly, the writ petition is allowed. The seizure memo dated 26.12.2025 is quashed. The bank guarantee furnished by the petitioner in favour of the second respondent shall stand discharged. The second respondent is directed to return the original bank guarantee and the indemnity bond furnished by the petitioner within a period of two (2) weeks from the date of receipt of a copy of this order.

26. Consequently, the connected Miscellaneous Petitions are closed. There shall be no order as to costs.

04-08-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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   Custom Commissionerate Building,
   No.1, Williams Road, Trichy-620 001

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HEMANT CHANDANGOUDAR, J.

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