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Order QR

W.A.Nos.2931, 2939 & 2944 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-09-2026

CORAM

**THE HON'BLE DR.JUSTICE ANITA SUMANTH
AND
THE HON'BLE MR.JUSTICE S.RAVEEKUMAR**

W.A.Nos.2931, 2939 & 2944 of 2026
and
CMP.Nos.25804, 25820 & 25850 of 2026
CNR: {HCMA012044582026}



Case QR

W.A.No.2931 of 2026

1. The Deputy Commissioner of Customs (DIU)
O/o.The Principal Commissioner of Customs,
Preventive Commissionerate, Customs House
60, Rajaji Salai, Chennai – 600 001
2. The Assistant Commissioner of Customs(DIU)
O/o.The Principal Commissioner of Customs,
Preventive Commissionerate, Customs House,
No.60, Rajaji Salai, Chennai-600 001.
3. The Inspector of Customs Docks Intelligence Unit
O/o.The Principal Commissioner of Customs,
Preventive Commissionerate
Customs House, No.60, Rajaji Salai,
Chennai-600 001.
4. The Deputy Commissioner of Customs (Group 1)
Customs House, No.60, Rajaji Salai,
Chennai-01.

..Appellant(s)

Vs



W.A.Nos.2931, 2939 & 2944 of 2026

S.R.Rajarajendiran,
Proprietor of M/s.Asia Gate Exims,
No.52/25, Ankur Plaza, G.N.Chetty Road,
T. Nagar, Chennai - 600 017.

..Respondent(s)

W.A.No.2944 of 2026

1. The Deputy Commissioner of Customs (DIU),
O/o.The Principal Commissioner of Customs,
Preventive Commissionerate
Customs House, No.60, Rajaji Salai,
Chennai-600 001.
2. The Inspector Of Customs Docks Intelligence Unit,
O/o.The Principal Commissioner of Customs,
Preventive Commissionerate
Customs House, No.60, Rajaji Salai,
Chennai-600 001.
3. The Deputy Commissioner Of Customs (Group 1),
Customs House, No.60, Rajaji Salai,
Chennai-01.

..Appellant(s)

Vs

S.R.Rajarajendiran,
Proprietor of M/s.Asia Gate Exims,
No.52/25, Ankur Plaza, G.N.Chetty Road,
T. Nagar, Chennai - 600 017.

..Respondent(s)

W.A.No.2939 of 2026

1. The Deputy Commissioner of Customs (DIU),
O/o The Principal Commissioner of Customs
Preventive Commissionerate Customs House,
60, Rajaji Salai, Chennai- 600 001.



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2. The Inspector Of Customs Docks Intelligence Unit,
O/o.The Principal Commissioner of Customs,
Preventive Commissionerate,
Customs House, No.60, Rajaji Salai,
Chennai-600 001.

3. The Deputy Commissioner Of Customs (Group 1),
Customs House, No.60, Rajaji Salai,
Chennai-01.

..Appellant(s)

Vs

S.R.Rajarajendiran,
Proprietor of M/s.Asia Gate Exims,
No.52/25, Ankur Plaza, G.N.Chetty Road,
T. Nagar, Chennai - 600 017.

..Respondent(s)

Common Prayer: Writ Appeals filed under Clause 15 of the Letters Patent praying to set aside the impugned Common Order dated 27.07.2026, insofar as it relates to W.P.Nos.2050, 23278 and 24543 of 2026.

For Appellants: Mr.Sai Srujan Tayi

For Respondent: Mr.Hari Radhakrishnan

COMMON JUDGMENT

(Judgment of the Court was delivered by Dr.Anita Sumanth, J.)

The assessee/respondent is an importer and had filed a Bill of Entry on 14.10.2025 in respect of 500 bags of Agricultural Rejected Nut Pieces, Residue and Waste, which according to the respondent is cattle feed, unfit for human



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consumption. Based on an alert issued by the National Customs Targeting Centre (NCTC), the customs authorities detained the consignment and referred the same for testing.

2. Three tests have been conducted, on 26.09.2025 by Vinacontrol Ho Chi Minh City, 12.12.2025 by Referral Food Laboratory, Mysuru and 30.01.2026 by Central Revenue Control Laboratory, New Delhi The first test report dated 26.09.2025 concluded that the goods were unfit for human consumption. Report dated 12.12.2025 states as follows:

'Note 1: Since the sample is broken bits of cashew nuts, it is tested under FSSR2.3.47.5.

Note2: Sample was analysed for the above tested parameters as per the request given by AO in Form VIA dated 19.11.2025

C. Conclusion

The sample does not conform to the specifications laid down in the Act and the rules and regulation made thereunder for the parameters:

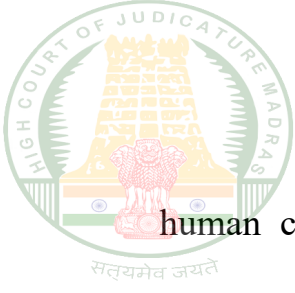
Acidity of extracted fat (oleic acid%) exceeds the maximum permissible limit'

3. Test report dated 30.01.2026 states as follows:

'The above tested parameters are within the specified limit for compounded feeds for cattle as per IS 2052:2023

Fit for human consumption of the same could not be determined, as the exact identity of the sample is not known. Mould and fungus is not visible to naked eye in the sample'.

4. The inference in all the above reports is that the sample is not fit for



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human consumption. Reports dated 12.12.2025 and 30.01.2026 support the assessee's stand that the goods were intended for cattle only.

5. A seizure memo was issued on 01.01.2026, the validity of which was extended on 19.06.2026, invoking the proviso to Section 110(2) of the Customs Act, 1962 (Act). Three writ petitions came to be instituted by the respondent, W.P.No.2050 of 2026 challenging seizure memo dated 01.01.2026; W.P.No.23278 of 2026 seeking a Mandamus for release of the goods and W.P.No.24543 of 2026 seeking a quash of extension of seizure memo on 19.06.2026.

6. The writ petitions came to be disposed by order dated 27.07.2026, whereunder W.P.No.24543 of 2026 was allowed and extension order dated 19.06.2026 was quashed. Consequently, the authorities were directed to return the seized goods upon furnishing of indemnity by the respondent. The authorities were also granted liberty to initiate and complete adjudication proceedings under Section 28 of the Act.

7. These appeals are filed at the instance of the authorities challenging the direction for immediate release and assailing the conclusion of the Writ Court that the extension of seizure should have been made within six months from the date of detention, being 24.10.2025, and not six months from date of seizure,



being 01.01.2026.

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8. We have heard Mr.Sai Srujan Tayi for the appellants/Customs and Mr.Hari Radhakrishnan for the respondent/assessee.

9. An extract of the customs alert dated 22.10.2025 on the basis of which the goods were detained is produced. As per that alert, instances have been noted where the imported items declared as cattle feed had been found to be 'Cashew Kernels'. The alert reads as follows:

NCTC analysis of past seizures have revealed that, in similar consignments, in some instances in recent past after testing by ICAR-Directorate of Cashew Research, it has been found that imported items were Cashew Kernels. In pursuance to DGFT Notification No.59/2015-20220 dated 21.02.2023, the import of Cashew Kernels (Broken) is free is CIF Value is above Rs.680/- per kg. Hence, the sample may be sent for testing to determine the nature and composition of items, whether it is unfit for human consumption.

10. According to Mr.Tayi, there have been instances where the imported Cashew Kernels, though priced at very low rates and styled as cattle feed, have been diverted to units to be used in preparations for human consumption. However, this is not a matter that may be enquired into or verified at this stage and hence, we do not agree with the appellants that this would form an appropriate basis so far as detention/seizure is concerned.

11. The second argument raised is that the pricing of the goods at Rs.90/-



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per kg is far less than the rate of Rs.680/- per Kg, that has been notified as the minimum price for the import of Cashew Kernels meant for human consumption. Thus, according to him, since the rate is below the notified price, the goods are rendered 'prohibited', liable for seizure. No such notification has been produced before us despite our specifically seeking the same.

12. That apart, we have already found that one test report finds that the imported goods constitute cattle feed, unfit for human consumption, and two reports that certify that the goods did not conform to the required standards of human consumption. We thus reiterate that the argument that the goods are prohibited is, as at this stage at any event, baseless and of no merit whatsoever.

13. In fact, the assessee has produced purchase order dated 19.10.2025 from the TND 1281 Kolpakkam Women Milk Producers' Cooperative Society Limited, for the purchase of 50 kgs of cattle feed and hence, prima facie, the imports appear to be for the purpose of cattle feed only.

14. On the aspect of release of goods, we confirm the order of the Writ Court and direct the authorities to release of goods forthwith on the assessee furnishing sufficient indemnity. Let adjudication proceedings continue in accordance with law.

15. Pending these writ appeals, the authorities have issued yet another



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extension order dated 31.08.2026, evidently to protect the writ appeals which would otherwise be rendered infructuous. In light of our order as above, we clarify that extension order dated 31.08.2026 is rendered infructuous. Hence, W.A.No.2944 of 2026 and CMP No.25850 of 2026 stand dismissed. No costs.

16. Coming to the legal issue involving W.A.Nos.2931 and 2939 of 2026, the detention in this case is on 24.10.2025 and the seizure of the consignment was on 01.01.2026. Section 110 and the Proviso are extracted below:

110. Seizure of goods, documents and things.

.....

(2) Where any goods are seized under sub-section (1) and no notice in respect thereof is given under clause (a) of section 124 within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend such period to a further period not exceeding six months and inform the person from whom such goods were seized before the expiry of the period so specified:

17. Section 110(2) lays an embargo on the authorities to issue notice of seizure within 6 months of the seizure, failing which the goods would be released. The Proviso enables the extension of the seizure within six months, on condition that reasons are recorded for such extension. The question is whether the six month period for extension should be counted from the date of detention



or seizure.

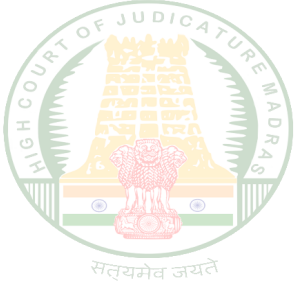
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18. The extension in the case was on 19.06.2026, which, if reckoned from 01.01.2026, is within the time stipulated under the proviso. However, the Writ Court has proceeded on the basis that the extension must be reckoned from the date of detention which in this case, was on 24.10.2025.

19. The issue as to whether an order of extension under the Proviso to Section 110(2) must be passed within 6 months from date of detention or seizure had come up for consideration before two Benches of this Court, where conflicting views have been expressed.

(i) In *ALM Enterprises vs. Commissioner of Customs (Imports), Chennai* [2017 (353) E.L.T. 289], a Division Bench had held as follows:-

'30. It is manifestly clear that the imported goods which have been unloaded in a Customs area shall remain in the custody of the Officer to whom their custody was entrusted under Section 45 of the Act and they continue to be remain under his custody till they are cleared for home consumption under Section 47 of the Act. There is no doubt that no such order clearing the goods has been passed in the present case. Consequently, the access or control or right of usage of the imported goods is not available at all to the importer, except under an express permission granted by the Proper Officer and no such permission has been granted either. Therefore, the contention canvassed by the learned Senior Counsel on behalf of the writ petitioner/appellant that the denial of access, control or usage of the imported goods amounts to seizure is not liable to be accepted in view of the provisions contained in



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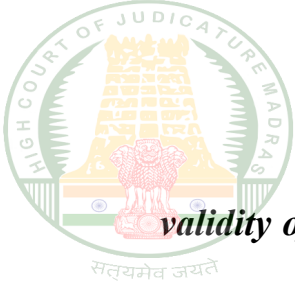
Section 17 read with Sections 45 and 47 of the Act. With all humility and great respect, we record our inability to subscribe to the reasoning assigned by the Division Bench of the Calcutta High Court in E.S.I. Ltd. v. Union of India (UOI) - 2003 (156) E.L.T. 344 (Cal.). In our opinion, the judgment of the Calcutta High Court is required to be understood in a different context but not in the backdrop of Section 17 and Section 45 of the Customs Act.”

20. Thus, the conclusion in *ALM Enterprises* is that it is the date of seizure that would be relevant to compute the period of six months for issuing an order of extension.

(ii) In *K.Steamship Agencies Pvt. Ltd. vs. Balaji Dekors* [(2024) 22 Centax 212], the Division Bench has stated that ‘*once the goods are not cleared, the goods are deemed to be seized..... Therefore, it can be concluded that the detention of goods is nothing but seizure as contemplated under Section 110 of the Act. The word ‘detention’ is to be read synonymous to the word ‘seizure’.*’

21. The earlier decision of the Division Bench had not been cited before the subsequent Division Bench.

22. In the above circumstances, we direct the Registry to place the matter before the Hon’ble The Chief Justice for consideration as to whether a Larger Bench may be constituted to decide the issue of, ‘***Whether, for reckoning***

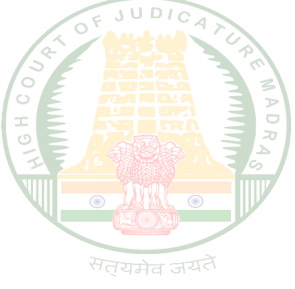


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validity of extension of six months under the Proviso to Section 110(2) of the Customs Act 1962, the relevant date would be the date of detention or the date of seizure of the goods'.

(A.S.M.,J.) (S.R.K.,J.)
28-09-2026

Index: Yes
Speaking order
Neutral Citation: Yes
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DR.ANITA SUMANTH, J.
AND
S.RAVEEKUMAR, J.

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