



WEB COPY



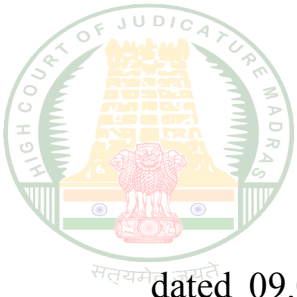
**W.P.No.34096 of 2024
and
W.M.P Nos.36910 and 36911 of 2024**

MOHAMMED SHAFFIQ, J.

The writ petition is filed challenging the impugned order dated 30.10.2024 whereby the goods imported have been confiscated for alleged violation of DGFT Notification No.77/2023 dated 16.03.2024.

2. The petitioner is engaged in the business of import and manufacture of garments. The petitioner was issued with import export IEC No.3217503953. The petitioner placed an order with overseas supplier, namely, M/s.Suzhou Innovtex Co. Ltd., China, for supply of 100% polyester knitted fabrics. The same was supplied under the cover of invoice No.S24-YY66 & S24-YY68 and contract No.SYL2024080123A12-12. The above consignment arrived at Chennai Seaport vide bill of entry Nos.5761216 & 5760784 dated 23.09.2024.

3. It is submitted that it is not in dispute that the subject goods are to be cleared under Special Advance Authorisation namely, DEEC No.3211007482



WEB COPY

dated 09.09.2024. In terms of the Special Advance Authorisation License, the petitioner were under an obligation to export the goods manufactured out of the imported material. The consignments were not released by relying upon DGFT Notification No.77 of 2023 dated 16.03.2024. In terms of the above notification 100% polyester knitted fabrics is 'Free' if CIF value is 3.5 US Dollar or above per kilogram. However, the value of the polyester knitted fabrics imported by the petitioner was valued at 1.7 US Dollar per kilogram, which is less than the minimum import price fixed in terms of the notification and thus, the imported goods were treated as prohibited in terms of the said notification.

4. The case of the petitioner is that the above notification was valid until 15.09.2024 and would rely upon the very notification itself. The relevant portion of which, reads as under:



WEB COPY

3

To be published in the Gazette of India Extraordinary Part-II, Section-3, Sub-Section (II)

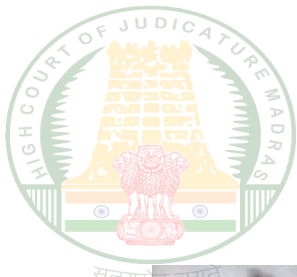
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Foreign Trade

Notification No. 77/2023
New Delhi, Dated: 16th March 2024

Subject: Imposition of Minimum Import Price on Synthetic Knitted Fabrics up to 15th September 2024 -reg

S.O.: In exercise of powers conferred by Section 3 read with Section 5 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2023, as amended from time to time, the Central Government hereby revises the Import Policy and Import Policy Condition of the following ITC(HS) Codes under Chapter 60 of ITC (HS) 2022, Schedule-I(Import Policy), for the period up to 15th September 2024 as under:

ITC(HS) Code	Item Description	Import Policy	Revised Import Policy	Existing Policy condition	Revised Policy condition
60063100	-Of synthetic fibres : -- Unbleached or bleached	Free	Prohibited	-	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60063200	-Of synthetic fibres : -- Dyed	Free	Prohibited	-	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60063300	-Of synthetic fibres : -- Of yarns of different colours	Free	Prohibited	-	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60063400	-Of synthetic fibres : -- Printed	Free	Prohibited	-	However, import is 'Free' if CIF value is 3.5 US Dollar and above per Kilogram
60069000	-- Other	Free	Prohibited	-	However, import is 'Free' if CIF value is



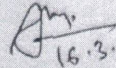
WEB COPY

3.5 US Dollar
above per Kilog

2. The existing 'Free' Import Policy, as it stands prior to the issuance of this Notification shall be in effect starting from 16th September 2024, unless expressly amended by subsequent notification.

Effect of the Notification: Minimum Import Price of US Dollar 3.50 per Kilogram imposed on (5) specific Synthetic Knitted Fabric ITC(HS) Codes for the period up to September 2024. The existing 'Free' Import Policy, as it stands prior to the issuance of this Notification, shall be in effect starting from 16th September 2024, unless expressly amended by subsequent notification.

This is issued with the approval of Minister of Commerce & Industry.


16.9.2024

(Santosh Kumar Sarangi)
Director General of Foreign Trade
Ex- officio Addl. Secretary to the Government of India
E-mail: dgft@nic

(F.No. 01/89/180/Misc-39/AM-05/PC-2[A]/E-1425)



WEB COPY

5. It was submitted that since the subject bill of entries were presented by the petitioner on 23.09.2024 that is subsequent to 15.09.2024, the impugned proceedings suffers from manifest arbitrariness and error apparent on the face of the record.

6. It was not brought to the notice of this Court as to whether there has been any subsequent amendment to Notification No.77 of 2023 whereby the prohibition on the basis of minimum import price was extended beyond 15.09.2024.

7. It was further submitted that since the goods were imported on the strength of Special Advance Authorisation, the restriction by way of MIP would not apply to their case and in any event notification No.77 of 2023 was not in existence after 15.09.2024, while the subject Bill of Entry was presented by the petitioner on 23.09.2024.

8. The petitioner submits that they are under an obligation with the foreign buyer to export manufactured garments within contractual period, thus the impugned order whereby the import consignment was confiscated and permitted to



WEB COPY

be redeemed only for re-export purposes, adversely affects the interest of the petitioner, and may well result in breach of its export obligation.

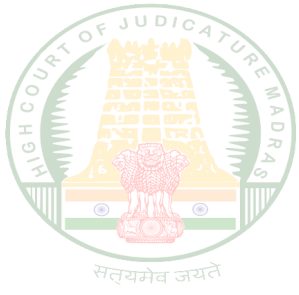
9. To the contrary, learned counsel for the respondent would submit that the imported goods were prohibited inasmuch it is the below MIP fixed and thus the impugned order does not warrant interference.

10. The questions that are raised by the petitioner may require further deliberation. However, as an interim measure, taking into account the peculiar facts, the goods are directed to be released, subject to the following conditions:

a) Duty shall be discharged on the consignment by adopting 3.5 U.S. Dollars per Kilogram as the value.

b) Bank guarantee shall be provided for the difference between the value of goods imported and 3.5 U.S.Dollars per kilogram.

c) The proof of use of imported material in manufacture of garments and export of the manufacture goods shall also be produced.



WEB COPY

11. It is made clear that these are only interim directions made on a prima facie view and in the peculiar facts of the case.

21.12.2024

mrn



WEB COPY



MOHAMMED SHAFFIQ, J.

mrn

**W.P.No.34096 of 2024
and
W.M.P Nos.36910 and 36911 of 2024**

21.12.2024