CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. I

Customs Appeal No. 41185 of 2025

(Arising out of Order F. No. Gen / Adj / Misc / 363 /2025, dated 24.07.2025 passed by the Principal Commissioner of Customs, (Preventive) Chennai, Custom House, No.60, Rajaji Salai, Chennai 600 001)

M/s. SLK Impex ...**Appellant**
223 / 3143, Tagore Nagar,
Near Municipal, Mumbai 400 083

Versus

The Principal Commissioner of Customs (Preventive) .... Respondent
Custom House
No.60, Rajaji Salai
Chennai 600 001

APPEARANCE:

For the Appellant : Mr. Anil Balani, Advocate for the Appellant
For the Respondent : Mr. N. Sathyanarayana, Authorised Representative

CORAM :

HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER No.40944/2026

DATE OF HEARING : 13.08.2026
DATE OF DECISION : 20.08.2026

Per: Shri Ajayan T.V.

SLK Impex, the appellant herein, has assailed the Provisional Release Order dated 24-07-2025 passed by the Principal Commissioner, Customs Preventive, Chennai, stipulating specific conditions, which according to the appellant are onerous.

2. Brief facts are that the appellant has imported goods declared as Interlining Textile Fabrics in 17 containers covered by various Bills of Entry filed through SEZ Unit M/s.Malj Lines Pvt Ltd (IEC: AAMCM1178L) situated inside the FTWZ, M/s. NDR Infrastructure Private Limited, Nadiambakkam, Ponneri Taluk, Chennai-600120. The said goods were

placed under seizure under provisions of section 110(1) of the Customs Act, 1962, by the Directorate of Revenue Intelligence, New Delhi, under various seizure memos. The seizure memos indicate that it appeared to DRI that the said goods are appropriately classifiable under CTH 54076900 on the basis of CRCL Tetst Reports, as against the declared CTH, i.e. 59039090. The seizure memos also drew the attention of the appellant to the provisions of provisional release of the seized goods provided under Section 110A of the Customs Act, 1962 read with the guidelines issued through Board's Circular No.35/2017-Cus dated 16.08.2017.

3. Subsequently, the impugned provisional release order dated 24.07.2025 came to be issued, whereby the appellants were asked to execute a Bond and furnish a Bank Guarantee for an amount of Rs.2.31 Crores.

4. Shri. Anil Balani, Ld. Advocate for the appellant, submitted that the conditions stipulated in the impugned provisional release order are onerous and have been so stipulated without appreciating relevant facts. It is stated that the appellant had valid grounds on merits to contest that the classification proposed was incorrect and that the appellant had in fact requested for re-test as was their right as per the Customs Appraising Manual, CBEC Circulars and the law laid down by various judicial forums and that in his communication vide letter dated 20.08.2025, he has pointed out that the appellant's application for retest is pending since 19.07.2025. He also contends that there are various other relevant factors that the Authority has omitted to consider while issuing the provisional release order and it is his fervent request that the appellant be granted an opportunity of personal hearing to convince the Authority as to why the provisional release order with the current stipulations have rendered the facility of release of the goods, illusory, and to this end, the impugned order be set aside with directions to pass a reasoned order of provisional release after hearing the appellant. It is also stated that the Show Cause Notice in this matter has already been issued and though the appellant had participated in a personal hearing, the authority is yet to pass an order.

5. Shri. N. Satyanarayana, Ld. Authorised Representative appearing for the Respondent submits that the impugned provisional release order has stipulated conditions that are reasonable and does not warrant any interference.

6. We have heard both sides and perused the material available on record.

7. We find that the right to request for re-test is an invaluable right of the appellant and as per the decisions relied upon and annexed to the present appeal, failure to allow the same is considered to be a violation of the principles of natural justice. It is also seen that the Circular No.30/2017-Cus dated 18-07-2017 prescribes the guidelines stating the procedure to be followed for re-testing of samples. The outcome of such re-test would also have a bearing in the adjudication of the instant case.

8. All that the appellant is seeking is an opportunity to put forth his case to impress upon the concerned Authority as to why the present conditions imposed by the Authority are unviable and renders the offer of provisional release illusory. Admittedly, the impugned order does not indicate that the appellant has been heard in this matter, and crucially, there is no reference therein to any written request or letter of the appellant seeking provisional release of the goods, normally a condition precedent to consider such provisional release, as per the Board's Circular No.35/2017-Cus dated 16.08.2017. It is also seen that the Hon'ble High Court of Kerala, in its decision in ***Mohini Jewellers v. Joint Commissioner, Customs Preventive Commissionerate, (2023) 11 Centax 230 (Ker.)*** has held that the Act of adjudicating authority in deciding an application for provisional release is adjudicating procedure and not a ministerial act and therefore the adjudicating authority is bound to adhere to the elementary principles of natural justice by adverting to the contentions raised in an application seeking provisional release and afford the applicant an opportunity of being heard.

9. As observed supra, the impugned order does not refer to the appellant's request for provisional release. On the contrary, in this case, it is the contention of the appellant that in its letter dated 19.07.2025, the

appellant has indicated that the re-test it has sought is pending and evidently the impugned order does not reflect any consideration of the said request. The ld. Counsel for the appellant has drawn attention to his letter dated 20.08.2025 annexed to the appeal, which is subsequent to the impugned order, detailing the reasons why the appellant considers that the conditions are onerous rendering the offer for provisional release illusory and further while requesting for expediting the clearance of the consignments under seizure, has also made a request to grant a personal hearing.

10. In the peculiar facts and circumstances, we are of the considered view that the appellant’s request for an opportunity of personal hearing to make out its case prior to the issuance of an order of provisional release is not unreasonable and merits favourable consideration. Therefore, without expressing any opinion on the merits of the matter, we are of the considered view that the impugned order is required to be set aside, which we hereby do, with further directions that the concerned customs authority would accord an opportunity of personal hearing to the appellant within 30 days of receipt of a copy of this order. The appellant is permitted to adduce evidence in support of its contentions and is also directed to obviate any delay and to fully cooperate with the denovo proceedings. The concerned customs authority shall thereafter, pass a reasoned order of provisional release stipulating conditions as per prevailing instructions and judicial pronouncements governing the matter. In case the appellant is disinclined to contest the conditions stipulated in the denovo order, and subject to fulfilment of such conditions, the goods shall be released within a week from the date of fulfilling such conditions.

The appeal is allowed in the aforesaid terms.

(Order pronounced in the open court on 20.08.2026)

(AJAYAN T.V.)
Member (Judicial)

(VASA SESHAGIRI RAO)
Member (Technical)

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