

Regular List
Serial No. 02

**IN THE HIGH COURT OF JAMMU & KASHMIR AND
LADAKH
AT JAMMU**

CPOWP No. 26/2018
c/w
CONOW No. 65/2018

Date of pronouncement : 16.12.2025
Uploaded on : 18.12.2025

M/s Dujodwala Resins
and Terpenes Lts.

....Petitioner

Through:- Mr. Pranav Kohli, Sr. Advocate with
Mr. Arun Dev Singh, Advocate.

V/s

B. B. Vyas & Anr.

.....Respondents

Through:- Mr. Vishal Bharti, Dy. AG.

**CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
JUDGMENT (ORAL)**

CPOWP No. 26/2018

01. The petitioner, as an auction purchaser, had purchased "Oleo Pine Resin" to the tune of **1313.468 MT** worth **Rs. 3,92,12,742/-** in the year 2007 and the payment was duly made by the petitioner for the said auction amount.

02. Later, the petitioner was called upon to pay the Central Excise Duty @ 16% per annum along with 2% Education Cess on the Excise Duty for the period from 2005-

06, 2006-07 and 2007-08, which amounted to **Rs. 45,46,818.36/-** which was collected from the petitioner against which the petitioner had come to this Court with the writ petition-**OWP No. 335/2015** which came to be *allowed* in terms of order dated **23.11.2017**.

03. The legal premise on which the petitioner was subjected to demand for payment of Central Excise Duty is a judgment of the High Court of Uttarakhand which is said to have been challenged before the Hon'ble Supreme Court of India in **SLP No. 2902/2020** which is pending adjudication and the final outcome would be determining the fate of the present contempt petition as to whether the order dated **23.11.2017** of the learned writ court would sustain to earn its compliance from the respondents' end or would fail in its final effects, as such, there is no purpose of keeping this contempt petition on the docket of this Court and, accordingly, the same is closed with a right reserved in favour of the petitioner to seek revival subject to the final outcome from the Hon'ble Supreme Court of India in above referred SLP.

04. ***Disposed of*** along with connected application(s).

CONOW No. 65/2018

05. By virtue of an order dated **23.11.2017**, the writ petition-**OWP No. 335/2015** was taken up for hearing upon

the consent of the learned counsel for both the parties and the matter was *disposed of* with a direction unto the writ-respondents to release the amount recovered from the writ-petitioner by way of Central Excise Duty within a period of two months failing which the reimbursement of the said amount was to carry interest @ 6% from order dated **23.11.2017** till actual payment of the amount taking place.

06. The claim of the writ-petitioner for recovery in the said writ petition was for an amount of **Rs. 45,46,818.36/-** which is said to have been purportedly deducted from the petitioner's purse by reference to a central excise duty payable. Said amount was collected by the writ-respondent No. 1 and kept in the shape of FDR pledged in favour of the writ-respondent No. 2.

07. The writ-respondent No. 1 was, as it was then the State of J&K through Commissioner/Secretary to Govt., Forest Department, whereas the writ-respondent No. 2 was, the Chief Conservator of Forests, J&K.

08. When the compliance to the direction of the writ court order did not come forth within the stipulated period, the writ-petitioner came forward with a contempt petition-**CPOWP No. 26/2018** instituted on **15.02.2018** in which the Chief Secretary of the State of Jammu & Kashmir, who then was Mr.

B. B. Vyas and Conservator of Forests, who then was Mr. Farooq Geelani were named as contemnors/respondents.

09. In the said contempt petition, notice was issued in terms of order dated **26.02.2018** and on the next date of hearing fixed in the said contempt petition which was **11.05.2018**, the appearance on behalf of the said two contemnors/respondents had come to take place, meaning thereby said two contemnors/respondents became fully conscious of the fact that even contempt petition was being pressed against them for non-compliance of the direction given in the writ court order dated **23.11.2017**.

10. From the end of the writ-respondents, an application-MCC No. **21/2018** is said to have been filed on **08.05.2018** through which the recall of writ court order dated **23.11.2017** was solicited.

11. While the said application for recall was pending, the writ-respondents are said to have a revisit of their legal thinking that a review petition requires to be preferred with respect to writ court order dated **23.11.2017** for which purpose so called official process was pressed into service by taking up the matter with the Administrative Department of Forest then to Law Department and in that regard final sanction coming forth from Law Department on **28.11.2018**

for filing the review petition, which finally landed before the learned Sr. Additional Advocate General on **10.12.2018** resulting in filing of a time barred review petition on **20.12.2018** accompanied with the condonation of delay application literally seeking condonation of delay of almost one year in seeking the review.

12. The very fact that recall of order dated **23.11.2017** was sought by the writ-respondents by filing an application-**MCC No. 21/2018** on **08.05.2018** is an acknowledgment of the fact from the end of the writ-respondents that they were not comfortable with the order dated **23.11.2017** so passed in writ petition-**OWP No. 335/2015** and, therefore, it should not have taken more than seven months in running for the writ-respondents to set their house in order in coming forward with filing of a review petition instead of seeking recall of the writ court order dated **23.11.2017** through an application-**MCC No. 21/2018**.

13. In the entire condonation of delay application while the applicants i.e., the State of Jammu & Kashmir as it was then and the Chief Conservator of Forests have spelled out the process which has generated the decision to file review petition but the process which generated the decision to file recall application has been kept muted as if filing of a review application was a matter of stray thinking at the leisure and

pleasure of the applicants filing application-**MCC No. 21/2018**, whereas filing of a review petition was a matter of a deep-seated thinking for which the Administrative Department and Law Department required to be on the same page along with the learned Sr. Additional Advocate General of the State so as to generate the review petition against the writ court order dated **23.11.2017**.

14. Nothing can be more frivolous in the name of showing a cause for delayed filing of a review petition than what has been set up in the application itself, as such, the same is **dismissed**.

JAMMU
16.12.2025

Bunty

(RAHUL BHARTI)
JUDGE

Whether the judgment is speaking: Yes/No

Whether the judgment is reportable: Yes/No