

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3744 OF 2015

Pawan Mehta

... Petitioner

Vs

1. Union of India & Ors.

... Respondents

Mr. Prakash Shah I/b Mr. H.K. Sudhakara for the Petitioner.

Mr. Rajiv Chavan with Mrs. Neeta V. Masurkar and Mrs. Nisha N. Valani for the Respondent No.1.

Mr. Pradeep S. Jetly for the Respondent No.3.

**CORAM : S.C. DHARMADHIKARI &
G.S. KULKARNI, JJ.**

MONDAY, 27TH JULY, 2015

P.C. :

1. The petitioner apprehends that pursuant to a Circular dated 16th September, 2013, issued by the Joint Director General of Foreign Trade, his rights to object to certain proceedings under the Customs Act, 1962, would be jeopardized. In other words, relying upon this Circular, the Customs authority would hold that the ICE Code (Import Export code) ought to have been in the name of the petitioner alone

enabling him to import the goods and thereafter deal with them in accordance with law. Since it is not in the name of the petitioner, the imports themselves contravene the law would be the conclusion reached relying upon this circular.

2. Beyond attaching a copy of the order stated to have been passed by the Kerala High Court in a Writ Appeal which was decided by it on 21st July, 2011, we do not see how the issuance of the Circular by itself would disable the petitioner or cause any prejudice otherwise. Today, the petitioner has received only a summons from the Superintendent of Customs (Preventive), Mumbai to appear before him and to tender evidence with regard to an inquiry in case of dubious imports.

3. In the event this inquiry concludes in any proceedings initiated against the petitioner, then, at such proceedings it would always be open for the petitioner to urge that the law does not prohibit the course adopted by him and that the understanding of the Joint Director General of Foreign Trade cannot control the interpretation of the Foreign Trade (Development & Regulation) Act, 1992, or any of its

provisions and at that stage, reliance can be placed upon such judgments as are delivered by the High Court of Kerala.

4. Keeping all such contentions open and for being raised at an appropriate stage, we dispose of this Writ Petition. No order as to costs.

G.S. KULKARNI, J.

S.C. DHARMADHIKARI, J.