IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5877 OF 2014

Dream Yachts Pvt.Ltd. & Ors. ... Petitioners
vs.
Union of India & Ors. ... Respondents

Mr. Sujay Kantawala, i/b. Brijesh Pathak,Advocate for the Petitioners
Mr.Vinay Sonpal a/w Mr. J.B.Mishra, AGP, for the respondents

CORAM: B.R.GAVAI & A.S.GADKARI, JJ.
DATE : 28th April, 2015.

P.C.

Rule. Rule made returnable forthwith.

2. The undisputed position as can be gathered from the impugned order itself is thus: When the matter was heard on 18.2.2014 and the Counsel for the petitioner was heard by the learned Settlement Commissioner, neither the report of the Commissioner of Customs i.e. Respondent No.2 herein was placed on record nor the representative of the Revenue was present before the learned Settlement Commissioner. However, subsequently, the Revenue submitted its report dated 11.3.2014. The impugned order has been passed on 20.5.2014 after taking into consideration the submissions made by the petitioner as well as the report

of the Respondent No.2, which was admittedly filed after the hearing was given to the petitioner by the learned Settlement Commissioner.

3. It is thus clear that the impugned order has been passed by the Respondent No.3 – the learned Settlement Commissioner by taking into consideration the material, a copy of which was neither supplied to the petitioner nor the petitioner was given an opportunity to meet the said material.

4. In that view of the matter, we are of the considered view that the impugned order is in utter violation of the principles of natural justice. On the short ground, the Petition deserves to be allowed.

5. The impugned order dated 20.5.2014 is, therefore, quashed and set aside and the matter is remitted back to the learned Settlement Commissioner - Respondent No.3 for deciding the matter afresh on its own merits. We make it clear that we have not adverted to the merits of the matter and all rival contentions available to the parties in law, would be available to them before the learned Settlement Commissioner.

Rule is made absolute in the aforesaid terms. No order as to costs.

(A.S.GADKARI, J.) **(B.R.GAVAI, J.)**