

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10179 OF 2015

Paxchem Limited.

... Petitioner.

Vs.

1.Union of India & Ors.

... Respondents

Mr.Zubin Kamdin with Ms.Hilla Boatwalla with Mr.Anupam Surve & Mr.Nikhil Mutha & Ms.Pritika Lobo i/b. Nanu Hormasjee & Co., for the Petitioner.

Mr.J.S.Saluja, for the Respondent No.1.

Mr.P. S.Jetly, for Respondent Nos.2 and 3.

**CORAM : M.S. SANKLECHA &
G.S. KULKARNI, JJ.**

DATE : 21st OCTOBER, 2015.

PC. :

1. This petition under Article 226 of the Constitution of India challenges the communication dated 6 October 2015 issued by the Assistant Commissioner of Customs. By the impugned

communication, the petitioner is permitted to clear the product called “Diuron 97% Technical” imported under the bill of entry dated 26.9.2015 on the following conditions:

“ITC Bond requirements as follows:-

1. ITC Bond for 6 months pending clarification from CIB.
2. The material is not allowed for consumption after clearance from Customs actually.
3. As and when called for goods should be produced before the adjudication authority for the action which deem fit.”

2. Mr.Kamdin, learned Counsel for the petitioner states that after filing of the petition, there are three more consignments which have arrived and the respondents are not allowing its clearance. It is the case of the petitioner that the chemical 'Diuron' which is the subject matter of the controversy is being imported for last many years and the Customs have been allowing clearance of the same without insisting of any clarification/ inspection from Central Insecticide Board. It is further submitted that in view of the attitude of the Customs Department in not permitting the clearance of the goods, the petitioner's factory has come to standstill. This in turn

may result not only in loss in financial terms but also a possible loss of its customers. Therefore, the urgency.

3. In response, Mr.Jetly, learned Counsel for the Revenue very fairly, on instructions, states that the Customs Department would issue a show cause notice to the petitioner within nine working days from today. Thereafter, the Adjudicating Authority would hear the petitioner in accordance with principles of natural justice within the next seven working days after issuance of show cause notice. Thereafter, the Adjudicating Authority would pass an appealable order within another seven days after conclusion of hearing after duly considering the petitioner's submission.

4. In view of the above, Mr.Kamdin, learned Counsel appearing for the petitioner seeks leave to withdraw the petition. Leave as prayed for is granted. The petition is dismissed as withdrawn. All contention of both the sides are kept open to be urged before the Adjudicating Authority.

(G.S.KULKARNI, J.)

(M.S. SANKLECHA, J.)