

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1906 OF 2014

Shah Nanji Nagsi Exports Pvt.Ltd. } Petitioner
versus
Union of Ind and Ors. } Respondents

Mr. Arif Bookwala-Senior Advocate with Mr. Shyam Dewani and Mr. Pushkraj Deshpande i/b. M/s. Dewani Associates for the Petitioner.

Ms. S. I. Shah with Mr. M. S. Bharadwaj for Respondent Nos. 1, 3 and 3A.

Mr. Pradeep S. Jetly for Respondent Nos. 2, 5 and 6.

**CORAM :- S. C. DHARMADHIKARI &
SUNIL P. DESHMUKH, JJ.**

DATED :- MARCH 3, 2015

PC. :-

When this Writ Petition was placed for admission, Ms. Shah appearing for Respondent Nos. 1, 3 and 3A raises a preliminary objection and submits that the order that has been passed by the Joint Director General of Foreign Trade dated 14th February, 2014 is appealable under section 15(1)(b) of the Foreign Trade (Development and Regulation) Act, 1992. When this objection was brought to the notice of Mr. Bookwala-Senior Counsel appearing for the Petitioner, together with the provisions of section 15(1), he fairly states that the

Petitioners would have to approach an appellate authority in terms of the said provision. He therefore seeks leave to withdraw the Petition with liberty to file such Appeal. Leave granted. The Writ Petition is allowed to be withdrawn with liberty to file the Appeal.

2) We clarify that we have not expressed any opinion on the merits of the order passed by the Joint Director General nor we have expressed any opinion on the contentions as raised before us in terms of the averments in the Writ Petition. All such contentions can be raised before the appellate authority. If the Appeal is filed in terms of this liberty under section 15(1) and particularly clause (a) thereof within a period of four weeks from today, the appellate authority not to dismiss the same only on the ground of limitation. This order is passed in the peculiar facts of this case and shall not be treated as a precedent because of the proviso to sub-section (1) of section 15. The appellate authority shall consider the Appeal on merits if the same is filed within a period of 4 weeks from today only because of the pendency of this Writ Petition and the order passed by this Court on 20th February, 2014. If the Appeal is not filed within this period, then, the Petitioner will have to satisfy the appellate authority that the delay deserves to be condoned or otherwise in terms of the provisions. The ad-interim order passed by this Court to continue for a period of 4 weeks from today, but without prejudice to the rights and contentions of both sides.

3) All concerned to act upon an authenticated copy of this order.

(SUNIL P. DESHMUKH, J.)

(S.C.DHARMADHIKARI, J.)