

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD

WRIT PETITION NO. 1647 OF 2013

Eshan Minerals Pvt. Ltd.

Petitioner..

VERSUS

Union of India & Ors.

Respondents..

.....
Mr R. F. Totala, Advocate for the petitioner
Mrs. Kalpalata Patil Bharaswadkar, Advocate for respondents No. 1 to 9
.....

WITH
CIVIL APPLICATION NO. 4497 OF 2013
CIVIL APPLICATION NO. 4498 OF 2013
CIVIL APPLICATION NO. 6464 OF 2013

CORAM : **A. V. NIRGUDE &
V. L. ACHLIYA, JJ.**

DATE : 12TH APRIL, 2016.

PER COURT:

. This petition seeks injunction against the respondents from initiating seizure proceedings against the petitioner. Prior to filing of this petition, the Excise Department had already visited the petitioner's premises and had taken search and seized certain material and documents.

2. In nutshell, it is the contention of the petitioner that, Quick Lime, Slaked Lime, Hydraulic Lime, Hydrated Lime Powder and Crack Fill manufactured by the petitioner-Company are not chargeable for excise duty. According to the petitioner, the products would fall within the definition of item No. 2522 of Section 5 of Chapter 25 of Schedule 2 of Central Excise Tariff Act, 1985.

3. On the other hand, the Department contended that, the product of the petitioner is putty, which falls within the definition of Item No. 3214 of Chapter 32 of Central Excise Tariff Act, 1985.

4. We are not going into the question as to whether the product of the petitioner is excisable or otherwise. Such question would arise only when excise duty is demanded from the petitioner. The documents of the petitioner's Company are already searched and seized. In addition to this, the learned counsel for the petitioner made submission that, if the Department wants to know any further information regarding the manufacturing process and the sale of the product, his client would provide the same without hesitation. The Department would then be able to assess the situation and decide as to

whether the petitioner's product is excisable and take necessary steps and if steps are detrimental to the petitioner's interest, he would have ample opportunity to deal with the situation. In our view, the purpose of this petition is now served. Writ Petition is disposed of.

5. Petitioner is given liberty to file suit for the purpose of prayer made in prayer clause 'E' of the petition.

6. In view of disposal of main petition, nothing survives for consideration in the connected civil applications and same stand disposed of.

[V. L. ACHLIYA, J.]

[A. V. NIRGUDE, J.]