

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1619 OF 2016**

M/s. D. K. Collection ...Petitioner
Versus
Union of India & Ors. ...Respondents

**WITH
WRIT PETITION NO. 1709 OF 2016**

M/s. Tesla Decor A Sole Proprietary Concern of
Shri.Devendra Rai ...Petitioner
Versus
Union of India (Through the Secretary) & Ors. ...Respondents

Mr. Sujay Kantawala, *with Mr. Yogesh Rohira, for the Petitioners in both Petitions.*

Smt. Shehnaz V. Bharucha, *for the Respondent No. 1, Union of India in WP/1619/16.*

Mr. Pradeep S. Jetly, *for the Respondents Nos. 2 to 5 in WP/1619/16 and for the Respondents Nos. 3 to 6 in WP/1709/16.*

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

DATED: 22nd February 2016

PC:-

1. The Petitioners' goods have been, according to them, illegally seized and now detained.

2. These are carpets and according to Mr. Kantawala appearing for the Petitioners, there lying with the Respondents from November 2015 serves no purpose and is for benefit of none.

3. Upon such state of affairs, we have called upon Mr. Jetly to take instructions.

4. Instead what we have is a detailed Affidavit in Reply followed by a Rejoinder.

5. After all this Mr. Jetly, on instructions, states that if the Petitioners appear before the authority and indeed prove that they are dealing with knotted woollen carpets and Indonesian brand, have a confirmed order and which requires them to bring these goods and for which they are committed, then, depending upon such documents and a satisfaction *prima facie* with regard to the truth and genuineness of their contents, the authorities would on that being reached and that the Petitioners had proved *prima facie* a genuine business activity, then, the goods would be released provisionally and without prejudice to the rights and contentions of all parties.

6. We accept these statements made on instructions by Mr. Jetly and direct that within a period of two weeks from today, the above exercise should be completed.

7. We are sure that if the Petitioners proclaim that they have been engaged in these activities and all their consignments have been cleared in the past without the Department or the

Respondents raising any objection of the present nature, then, we have no doubt that even if the Petitioners are unable to identify the end user at this stage their past transactions would denote a genuine business activity and undertaken over a period. We have no doubt in our mind that the Respondents will take care and note this aspect of the matter as well.

8. With these observations, both the Writ Petitions are disposed of. There will be no order as to costs.

(G. S. PATEL, J.)

(S. C. DHARMADHIKARI, J.)