

Vasant Bhanushali	}	Petitioner
versus		
The Union of India and Ors.	}	Respondents

Mr. Prakash Shah and Mr. Jas Sanghavi
i/b. M/s. PDS Legal for the petitioner.

Mr. Pradeep S. Jetly for respondent nos.
1, 2 and 3.

**CORAM :- S. C. DHARMADHIKARI &
DR. SHALINI PHANSALKAR-JOSHI, JJ.
DATED :- APRIL 25, 2016**

P.C. :-

1) The petitioner has filed this petition for a simple relief, according to him. He claims that as a national and citizen of India and resident of Mumbai, he carries on business of imported pulses for sale in India in the name and style described in para 1 of the writ petition.

2) The petitioner complains that there is an inaction on the part of the second respondent and equally the third respondent in not passing any order or direction and thereafter not allowing an amendment of the Import General Manifest (IGM), details of which are set out in para 3 of the petition. The petitioner desires that his name be substituted as importer in

place of respondent no. 4. The claim of the petitioner is that it is he who had purchased the commodities/goods, which were sent from abroad and thus, he is an importer. He has all the documents evidencing such import. However, as set out in the petition, the consignment arrived but the fresh bill of lading had to be obtained. On the strength of that bill of lading and which was bearing the same number as original, the petitioner claims that he is entitled to the imported goods. However, on the IGM at serial number 75, the name of respondent no. 4 was indicated as importer. That was because the respondent no. 4 was notified party in the bill of lading. The difficulty is that the petitioner cannot file a bill of entry and seek clearance of the imported lentils even though the bill of lading, which is the only document of title, is endorsed in his favour, till such time the name of the petitioner is notified thereon as importer.

3) That is how from 11th December, 2015, the petitioner, after a written application, is pursuing the matter with respondent nos. 1 to 3.

4) The petitioner also relies upon the fact that there is a facility notice, based on which, the officers of the Customs are not considering and allowing the application of the petitioner for amendment to IGM.

5) This matter was called out in the morning session and bearing in mind that the petitioner claims to be an importer of pulses, we called upon Mr. Jetly to take instructions. Mr. Jetly, on instructions, informs us that within a period of 1 week from today, the necessary orders will be passed on the application of the petitioner. We record Mr. Shah's statement that the petitioner will indemnify the Customs against the claim, if any, raised by any third party, including respondent no. 4. He submits that the Department should not insist on a no-objection certificate from respondent no. 4 once he has fully indemnified.

6) We have no doubt that in considering the application of the petitioner and passing the requisite orders, the readiness and willingness of the petitioner to furnish indemnity bond indemnifying the revenue against all claims of the aforesaid nature shall be duly noted and considered. We accept the statement of Mr. Jetly as an undertaking given to this court and dispose of the petition.

(DR. SHALINI PHANSALKAR-JOSHI, J.) (S.C.DHARMADHIKARI, J.)