

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO.4529 OF 2016**  
**WITH**  
**CIVIL APPLICATION NO.2860 OF 2016**  
**IN**  
**WRIT PETITION NO.4529 OF 2016**

Jiten Sheth & Anr.

.... Petitioners

Vs.

Union of India & Ors.

.... Respondents

Mr. Vikram Nankani, Senior Counsel with Mr. Prakash Shah, Mr. Sujay Kantawala, Mr. Sanjay Agarwal, Mr. Jas Sanghavi & Ms Neha Ahuja i/by M/s. Prompt Legal for the Petitioners.

Mr. Anil C. Singh, Additional Solicitor General with Mr. Yash Momaya, Ms P.S. Cardozo, Mr. Pradeep S. Jetly & Mr. Sham Walve for the Respondents.

**CORAM: S.C. DHARMADHIKARI &  
B.P. COLABAWALLA, JJ.**

**DATE : MARCH 06, 2017**

**P.C:**

1. Without expressing any opinion on the wider question, namely, the challenge to the Constitutional validity of the proviso to sub-section (1) of Section 127B of the Customs

Act, 1962 and finding that eventually the Settlement Commission has proceeded to entertain the application for settlement filed by the petitioners, which order of the Settlement Commission is challenged by the respondents to this writ petition in O.S. Writ Petition (Lodging) No.2498 of 2016, nothing survives in this writ petition. Hence, rule is discharged. No order as to costs.

2. We clarify that we have not examined the Constitutional issue at the instance of the Revenue/respondents in this writ petition, in view of admission of the substantive O.S. Writ Petition (Lodging) No.2498 of 2016.

3. In view of disposal of the main petition, Civil Application No.2860 of 2016 does not survive and it accordingly stands disposed of.

(B.P. COLABAWALLA, J.)

(S.C. DHARMADHIKARI, J.)