IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3571 OF 2017

Mr. Bimal Shah .. Petitioner
Vs.
Union of India & Ors. .. Respondents

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Mr. Sanjay Kantawala a/w. Mr. Brijesh Pathak, Advocate for the Petitioner.
Mr. Pradeep S. Jetly a/w. Mr. Sham V. Valve, Advocate for the Respondents.

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CORAM : S.C. DHARMADHIKARI AND PRAKASH D. NAIK, JJ.

DATED : APRIL 3, 2017.

P.C. :

This petition essentially seeks a declaration that the actions on the part of the respondents amount to illegal detention and seizure of the petitioner's goods more particularly described in prayer Clauses (a) and (b).

2 One more action which is challenged is that the authorities have allegedly wrongfully and illegally frozen the bank account, details of which are also mentioned in prayer Clauses (c) and (c)(i).

3 After the matter was heard for some time, the petition and annexures are perused, so also the affidavit of reply, we are of the opinion that there are serious factual differences and disputes between the parties. In writ jurisdiction, it would not be proper on our part to express any opinion on the same. The controversy, therefore, is about the seizure of the goods which the petitioner claims to have been brought in India legally. The authorities think otherwise. They say that the import is banned and it not permissible to import the goods in law. Let the provisional assessment order in terms of powers conferred by the Customs Act and particularly 110-A, as quoted by Mr. Jetly shall be passed on or before 10th April, 2017. We do not countenance the freezing of bank accounts till even *prima facie* determination of the goods being brought illegally or in contravention of law. Therefore, without prejudice to the rights and contentions of both sides, we direct that a sum of Rs.11 lakhs shall be maintained either in one account or both accounts together and once such a balance is maintained, the banking operations from the two accounts shall be allowed to be carried on. However, this also would be without prejudice to the rights and contentions of both sides. Needless to clarify that if such balance is not maintained, present

position will be continued as far as freezing of the bank accounts are concerned.

3 By clarifying that this Court has not expressed any opinion either on the petitioner's contentions or on the stand of the Revenue, the writ petition is disposed of.

4 Needless to clarify that the writ petition itself would be treated as a request for provisional release of the goods by the authorities and no separate application need be filed by the petitioner.

(PRAKASH D. NAIK, J.) **(S.C. DHARMADHIKARI, J.)**