IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13378 OF 2017

1 Yuri Impex Pvt. Ltd. & Ors. ... Petitioners

Vs

1 Union of India & Ors. ... Respondents

Mr. Shroff i/b Wadia Ghandy & Co. for the Petitioner.

Mr. Pradeep S. Jetly for the Respondent-Union of India.

CORAM : S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.

MONDAY, 11TH DECEMBER, 2017

P.C. :

1 We have heard both sides.

2 This is a petition challenging an order of provisional release of the goods.

3 The only contention canvassed by Mr. Shroff, learned counsel appearing for the petitioner is that the condition imposed for provisional release on the execution of a bond of 100% value of the goods and bank guarantee / cash security of Rs.4.23 crores

is onerous, excessive and arbitrary. The seizure of the subject goods is sought to be linked with some other action of the similar nature and that is how this exorbitant sum is demanded.

4 Mr. Jetly appearing for the Revenue, however, would submit that in this case the extended period is invoked and now the show cause notice would be issued promptly. Secondly, it is the petitioner's request for provisional release of the seized goods which has been considered and there is enough power vesting in the authorities in exercising discretion on the lines presently done. So long as the action is not arbitrary, capricious and of such nature as would shock the judicial conscience in writ jurisdiction, ordinarily this Court should not interfere with such an order. All the more when they are appealable as well.

5 We do not think that we should go into the rival contentions on merits. Firstly, Mr. Jetly has stated that within a period of eight weeks from today, the show cause notice would be issued pursuant to the seizure. The time, accordingly, stands extended and would come to an end by the end of these eight weeks. Meaning thereby, even the extended time will come to an

end. Secondly, after hearing both sides and since the seizure has been effected of power tools, spare parts, grinding wheels, cutting wheels etc. which have been imported vide bills of entry of May 2017, interest of justice would be served if we balance the rights and equities. We balance them by reducing the amount of the bank guarantee / cash security from Rs.4.23 crores to Rs.3.00 crores. On the petitioner executing a bond as directed in paragraph 2 of the impugned order, as also furnishing a bank guarantee in the sum of Rs.3.00 crores, the seized goods shall be released provisionally to the petitioner. All this is without prejudice to the rights and contentions of both sides, particularly on the merits of the controversy.

6 The petition is disposed of accordingly.

SMT. BHARATI H. DANGRE, J. ***S.C. DHARMADHIKARI, J.***