

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1085 OF 1999

Interface Financial Services Ltd.,
a Company incorporated under the
Companies Act, 1956, having their
Registered Office at Agarwal Complex,
Next to Municipal Market, C.G. Road,
Ahmedabad – 380 009 and their
Office at 214-216, Maker Bhavan III,
21, New Marine Lines,
Mumbai – 400 020.

.... Petitioners

- Versus -

1. Union of India
2. The Commissioner of Customs,
Air Cargo Complex,
Sahar, Andheri (East),
Mumbai – 400 099.
3. Assistant Commissioner of Customs,
Air Cargo Complex,
Sahar, Andheri (East),
Mumbai – 400 099.
4. Director of Revenue Intelligence,
1st Floor, Construction House,
Walchand Hirachand Marg,
Ballard Estate, Mumbai-400 038.
5. Assistant Director of Revenue
Intelligence,
1st Floor, Construction House,
Walchand Hirachand Marg,
Ballard Estate, Mumbai-400 038.

.... Respondents

Mr. Shailesh Kumar i/by Mr. Yogesh P. Gandhi
for the Petitioners.

Mr. Pradeep S. Jetly for Respondent Nos.1 to 3.

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

DATE : MARCH 06, 2017

ORAL JUDGMENT (Per Shri S.C. DHARMADHIKARI, J.):

1. Having heard both sides and finding that respondent Nos.1 to 3 have recovered from the defaulters the amount which was payable as customs duty, no useful purpose will be served by permitting the said respondents to continue with the attachment.

2. However, it is prayed that the Department has to recover the interest from the defaulters and which, according to the Department/respondents in this case, are the petitioners. The petitioners deny any such liability to pay interest. The argument is that out of sheer compulsion and force a sum of Rs.35 lakhs was paid to the respondents, but that does

not mean that the petitioners admit the liability. In any event, the sum of Rs.35 lakhs is not paid belatedly but promptly is the alternate submission.

3. These are factual disputes. Even if the writ petition is admitted and pending since 1999, on the earlier occasion as well as today, we indicated to both sides that this is not an issue which can be resolved in our limited jurisdiction. There is a clear dispute and emerging from the records of this case. Once the petitioners have paid a sum of Rs.35 lakhs, may be in the year 2013, as claimed by Mr. Jetly, appearing for respondent Nos.1 to 3, we do not allow the respondents to continue the attachment for any balance quantum or sum that is due and allegedly payable. It may be as interest but for that the respondents would have to institute appropriate legal proceedings. They may in such proceedings claim that they are entitled to attach or continue the attachment on the immoveable and moveable properties for the claim of interest. The petitioners obviously deny any privity of contract with the respondents.

4. Giving the background of the facts and noticing that the petitioners have despite challenging the attachment paid a sum of Rs.35 lakhs to the respondents in the year 2013, which is after the institution of the writ petition, we dispose of the writ petition with the following order and directions:-

(i) The attachment on the immoveable property of the petitioner shall continue for a period of four weeks from today.

(ii) If within this period of four weeks the respondents initiate any proceedings before the Competent Court/Forum, it would be open for them to pray for such reliefs including continuing of the attachment and all such would be granted by the Competent Court/Forum on its own merit and in accordance with law, uninfluenced by the order and directions of this Court.

(iii) In the event the respondents fail to commence legal proceedings before any Competent Court/Forum and apply therein for the aforesaid relief, after four weeks the property shall stand released from attachment. Thereupon, the

respondents cannot proceed against the same for any balance dues or claim towards interest.

(iv) We clarify that we have not examined the rival contentions insofar as the claim for interest or the amount that has already been released by the petitioners in favour of the respondents.

(v) This order is without prejudice to the rights and contentions of all parties.

5. Needless to clarify that this Court has not expressed any opinion on the point of the legality and validity of the attachment.

6. Rule is made absolute in the above terms. No order as to costs.

(B.P. COLABAWALLA, J.)

(S.C. DHARMADHIKARI, J.)