

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO.407 OF 2018**

Shree Ramdev Metal Mart & Anr. .... Petitioners

Vs.

The Union of India & Ors. .... Respondents

Mr. Prakash Shah with Mr. Ajay Singh & Mr. Prasad

Paranjape i/by PDS Legal for the Petitioners.

Mr. Pradeep S. Jetly for the Respondents.

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

**DATE** : FEBRUARY 13, 2018

**P.C:**

1. We have heard this petition for some time. The prayers in the writ petition and particularly prayer clause (b) reads as under:-

*"(b) this Hon'ble Court be pleased to issue writ of Mandamus or any other appropriate writ order or direction under Article 226 of the Constitution of India, ordering and directing the Respondents, their subordinate servants and agents to forthwith -*

*(i) complete the investigations following due process of law without insisting for depositing any amount*

*towards alleged duty liability;*

- (ii) to return the amount of Rs.4.75 Crores deposited by the Petitioners under force and pressure from the Respondents;*
- (iii) release to the Petitioners unconditionally the goods covered under the 7 Bills of Entry Nos.2447905 dated 14.07.2017, 2694696 dated 02.08.2017, 2726960, 2726967 both dated 04.08.2017, 2737991 dated 05.08.2017, 4086520, 4086373 both dated 21.11.2017, and/or allow to be re-exported;*
- (iv) release the goods under seizure on execution of Bond by the Petitioners without insisting for any security; and*
- (v) refund Rs.61 Lakhs deposited towards Customs duty in respect of the live Bills of Entry;"*

Mr. Shah, learned counsel appearing for the petitioners would submit that some of the goods which are seized under the seizure memo comply with the standards (BIS compliant) and in relation to those goods at least some order should be passed. Alternatively and without prejudice, it is urged that both the goods which are compliant with BIS and non-compliant and issues in relation thereto are so inextricably linked up that it is not possible to segregate the same and everything must await the adjudication of the show cause notice which is likely to be

issued by 16-2-2018. Mr. Shah would submit that liberty be granted to the petitioners to make appropriate application and in relation to the requests which are incorporated and inserted in prayer clause (b) and let that request be considered and appropriate directions be issued within a period of two weeks from today. Mr. Jetly, on the other hand, would submit that given the nature of the proceedings and when the show cause notice is proposed to be issued, this Court should not pass any orders and as desired by the petitioners.

2. We do not think we are adjudicating anything in this petition. We are aware that we should not interfere with the powers of the authorities, particularly to issue show cause notice and to adjudicate the matter in accordance with law. However, beyond noting the request of the petitioners that liberty be granted to move the competent authorities and for provisional release of the goods and if permissible in law to re-export the same, we grant no relief at this stage. We allow the writ petition to be withdrawn with the liberty to make this application, as noted above, to the competent authority and if that is made, the

same shall be disposed of as expeditiously as possible and within a period of two weeks from its receipt. We clarify that though a detailed affidavit in reply is filed and contentions are proposed to be advanced by both sides on the merits, we have not expressed any opinion thereon. This order is without prejudice to the rights and contentions and particularly of the respondents to issue the show cause notice and to adjudicate accordingly.

(SMT. BHARATI H. DANGRE, J.)

(S.C. DHARMADHIKARI, J.)