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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10917 OF 2018

M/s. Bangalore Foods International and Anr. ... Petitioners
V/s.
Union of India, Thru Secretary and Ors. ... Respondents

Dr. Sujay Kantawala with Mr. Anupam Dighe and Ms. Chandni Tanna I/b India Law Alliance for the Petitioners.
Mr. Ram Ochani, for the Respondent.

**CORAM: M.S.SANKLECHA &
RIYAZ I. CHAGLA, JJ.**
DATE: 28TH SEPTEMBER, 2018.

PC:-

1. At the very outset, Mr. Kantawalla, the learned counsel appearing in support of the Petition seeks to amend the Petition by adding Jt. Commissioner of Customs (NS-I) as the Respondent No.5, being the person who has passed impugned order dated 3rd August, 2018. It is stated that by mistake the above authority remained to be joined in the title. The Respondent has no objection. Amendment be carried out forthwith. Reverification is dispensed with. The above amendment to be carried out immediately on the Respondents copies.

2. This Petition filed under Article 226 of the Constitution of India challenges an order dated 3rd August, 2018 (received on 10th August, 2018) passed by the Joint Commissioner of Customs. The impugned order dated 3 August 2018 is passed under the Customs Act, 1962 (Act). By the impugned order, the goods which were declared by the Petitioner as “Roasted Cashew Nuts Grade BB” were confiscated on account of mis-declaration as it was found to be broken Raw Cashews Nuts. However, the redemption of the above Raw Cashew Nuts was allowed on payment of redemption fine only for export of the same.

3. Mr. Kantawala, learned counsel appearing in support of the Petition states that the impugned order has relied upon a test report which is in favour of the Revenue having ignored a test report which was in favour of the Petitioner even after noticing it. Therefore it is submitted that that this Court should exercise its extra ordinary jurisdiction notwithstanding the fact that an alternate remedy of an appeal is available under the Act.

4. We are of the view that after noticing the fact that there were two contradictory reports, the adjudicating authority obtained a third report from another authority. All this this would require

appreciation of impugned order in the context of the evidence before it. These are issues which are best agitated and resolved before the Appellate Authority under the Act.

5. In the above view, we see no reason to exercise our extraordinary jurisdiction under Article 226 of the Constitution of India as efficacious alternate remedy is available under the Act from the impugned order dated 3 August 2018.

6. Therefore the Petition is dismissed. No order as to costs.

(RIYAZ I. CHAGLA J.)

(M.S.SANKLECHA, J.)