IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13952 OF 2018

Granite India … Petitioner

V/s.

Union of India and ors. … Respondents

Mr.Priyadarshi Manish with Ms.Anjali J. Manish i/by Mr.Devraj Kansara for the Petitioner.
Mr.Pradeep S. Jetly for the Respondent.

CORAM : AKIL KURESHI AND
M.S.SANKLECHA, JJ.
DATE : DECEMBER 13, 2018.

P.C.:-

1. Considering the issues involved, petition is taken up for final disposal at this stage. Petition has a checkered history. We may however refer to the relevant facts in brief.

2. The petitioner imports segments and blades. The question of the correct value of the imported goods become a subject matter of depute between the petitioner and the Custom Authorities. For

the past consignments, the petitioner was claiming the provisional release of the goods and thereafter, for final assessment of the bill of entries. The High Court at one stage passed an order on 2nd May, 2018 giving the directions to the Custom Authorities to finalize the assessment within 8 weeks from the date of receipt of the copy of the order. The Court in the said order noted that the goods have already been released on giving 100% bank guarantee of the value of goods. It appears that the Department did pass a final order, however, without issuing a notice upon which the petitioner approached this Court again and by an order dated 26th October, 2018 the order was quashed requiring the Department to pass fresh order. So far the final order of assessment is not passed. In the meantime, the Commissioner of Customs has issued a communication dated 9th October, 2018 directing the Customs Authorities to clear the future consignments of the petitioner of the said goods by assessing the value at the rate of Rs.1,200/- per kg.

3. Counsel for the petitioner submitted that the authorities on one hand are not finalizing the assessment of the past imports

and for the future, provision clearance would be permitted only upon depositing duty on the computation of value of goods at the rate of Rs.1,200/- per kg. On the other hand, counsel for the Department submitted that a fresh show cause notice would be issued to the petitioner for finalizing the assessment of the past imports and in the meantime, the future import cannot be allowed to be cleared without proper safeguards.

4. In the facts and circumstances of the case, we would require the Department to complete the assessments of the past imports without any further delay. As noted, the Court as far as back in May, 2018 had desired that the assessment be completed within 8 weeks from the date of receipt of the copy of the order. Whatever be the legal defect, fact remains that so far the assessment has not been completed. In fact, the show cause notice is also not issued. If, as was pointed out to us, the Department had already passed an order of assessment without notice to the petitioner, we do not understand why the Department cannot atleast be ready with full material to enable the adjudicating authority to issue show cause notice. On one

hand, there is thus considerable delay in finalizing the assessment of the past import and on the other hand, the petitioner's future imports are allowed to be cleared under strict conditions. In facts and circumstances of the case, therefore, the petition is disposed of with following directions:-

i) It would be open for the respondent to issue show cause notice/s for finalizing the past assessment of the imports which will be done within four weeks from today.

ii) Subject to the petitioner co-operating with such show cause notice proceedings, final order of adjudication shall be passed within three months of the petitioner filing reply to the show cause notice/s.

iii) The future consignments of the petitioner of the same goods may be released upon the petitioner furnishing bond of the 100% of the value of the goods and further furnishing 25% bank guarantee for the differential duty payable thereon. Petition disposed of.

(M.S.SANKLECHA,J.) **(AKIL KURESHI,J.)**

....