

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 462 OF 2018

M/s. Bhikhan Lal Raj Kumar
versus
Union of India & Anr.

..Petitioner

..Respondents

Mr. Jitendra Motwani for Petitioner.
Mr. Pradeep Jetly for Respondents.

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

DATE : 17TH JANUARY, 2018

P. C. :

1] After having heard both sides, we find that the controversy and issue in this petition is identical to the one decided except for the name and description of the goods.

2] In Writ Petition No.11747 of 2017 (M/s. Unik Traders vs. Union of India & Ors.) which has been disposed of by us on 11th January 2018, we have dealt with the import of Areca nuts. Here the goods involved or the consignment which is detained is of black pepper. That is not according to the respondents subjected to a lower rate of duty or full exemption. The benefit can be enjoyed only by goods which are of Sri Lankan origin. Whereas on investigation and testing samples in the present consignment, the goods have turned out to be of Vietnam origin. The investigations are yet not over. However, it is stated that the Revenue would ensure due compliance with law and in other cases here as well

provisional release has been ordered.

3] We had balanced the rights and equities in the case of Unik Traders (supra). In this case as well we propose to grant a conditional relief and dispose of the writ petition by passing the following order:

a] On the petitioner executing a bond equal to 150% of the value of the goods and furnishing a bank guarantee in the sum equivalent to 30% of the Duty both within a period of two weeks, the Competent Authority shall pass an order on the pending application seeking a detention certificate and release the goods in favour of the petitioner. The bank guarantee shall be kept alive till final orders of the Competent Authority;

b] Needless to clarify that this would be without prejudice to the rights and contentions of both sides, particularly on the merits of the controversy;

c] While disposing this petition with these directions, we clarify that we have not expressed any opinion on the rival contentions on the issues and they are kept open.

4] The petition is disposed of accordingly.

(SMT. BHARATI H. DANGRE, J.)

(S. C. DHARMADHIKARI, J.)