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

WRIT PETITION {L} NO.2292 OF 2018

M/s Nihal Enterprises .... Petitioners
Vs.
The Commissioner of Customs (Exports)
& Others .... Respondents

Mr. Prakash Shah with Ms Pooja & Mr. Jas Sanghvi
i/by Mr. Vinit Dubey for the Petitioners.
Mr. Pradeep S. Jetly for the Respondents.

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

DATE : JULY 30, 2018

P.C:

1. After this writ petition was placed before us for admission/urgent interim reliefs, Mr. Jetly, appearing on notice, tenders an affidavit in reply and the same is taken on record. In that affidavit in reply, details are set out in relation to the Shipping Bill in para 2. After setting out the details, it is stated that the input received related to mis-declaration of goods to be exported under the Shipping Bill. Based on that intelligence, the

matter was made over to the Directorate of Revenue Intelligence. Thereafter, sample was drawn of the detained goods, forwarded for analysis and tests and the report is also received. The details are set out and it is stated that one of the export items “Pharma Product Royal-225” would not be eligible for export as there are serious doubts and grave suspicion that this product does not match the description in the Shipping Bill and the reason for moving it out of India needs further probe. Save and except this product, the other two products covered by the Shipping Bill, namely, “Pharma Product DS Really Extra” and “Pharma Product Solodrex Tablet”, the Revenue is agreeable to provisionally release these two products and clear them for export. As far as the Pharma Product Royal-225, it is stated that the same cannot be allowed to leave the Indian Port or be exported and in relation to that proceedings in terms of the legal provisions would be initiated and an adjudication would be held. Thereafter, necessary orders in accordance with law will be passed.

2. The petitioners are agreeable to this course of action

and presently are satisfied with the release of the two products for export. However, we clarify that this being a provisional release, the same is without prejudice to the rights and contentions of both sides. Even the steps taken in relation to the third product shall not preclude the petitioners from raising appropriate contentions and each one of them are kept open. The Revenue shall pass an order on adjudication, if permissible in law, uninfluenced by the disposal of this petition.

3. Since the petitioners claim that they are incurring expenditure in the form of rent when the goods are lying at the Container Freight Station (CFS), in the peculiar facts and circumstances of the case, we direct that the adjudication be initiated and concluded within a period of four weeks from today. No extension will be granted for completing the said adjudication.

4. With the above directions, the petition is disposed of.

(SMT. BHARATI H. DANGRE, J.) (S.C. DHARMADHIKARI, J.)

Suresh Jagdish Sajnawat

Digitally signed by Suresh Jagdish Sajnawat
Date: 2018.08.01 11:35:55 +0530