

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

WRIT PETITION NO. 2770 OF 2018

Faisal Hayat Mohamed Shaik & Anr. .. Petitioners

v/s.

Union of India & Ors. .. Respondents

Dr. Sujay Kantawala a/w Mr. Anupam Dhige, Aishwarya Kantawala,
Poorva Patil I/b Indian Law Alliance for the petitioners
Mr. Pradeep S. Jetly for the respondents

**CORAM : AKIL KURESHI &
M.S. SANKLECHA, J.J.**

DATED : 7th DECEMBER, 2018.

P.C.

1. Case of the petitioners is that the Customs authorities have withheld the petitioners' export benefits since long, pending investigation into alleged irregularities in such exports. The petitioners also pointed out that in the mean time the Customs authorities have placed the petitioners' under attachment an immovable property in the nature of residential unit of the petitioner no.1 and his wife. Counsel for the petitioners submitted that the exports were made in the year 2014 and thereafter. The Customs authorities had cleared the export consignments. In terms of such exports, the petitioners were entitled to receive export benefits such as rebate. Part of the benefits were paid, some have been withheld. Since long the respondents have not completed the investigation and in the meantime the petitioners have to

suffer the attachment to the immovable property. Counsel, therefore, submitted that the respondents be directed to complete the investigation in a time bound programme and directions should also be given for lifting the attachment in respect of the immovable property. He also pointed out that the respondents have collected a sum of Rs.25 lakhs from the petitioners, which is also retained by them without adjudication of the disputes.

2. On the other hand, learned Counsel Mr. Jetly appearing for the Department submitted that the Department had unearthed number of illegalities in the export claims of the petitioners. The foreign exchange remittances were inflated through forgery. The entire investigation is not yet over. The petitioners are not co-operating with the investigation. The petitioners be directed to co-operate with such ongoing investigation.

3. To enable the respondents to complete the investigation, we direct the petitioners or any of them who may be summoned by the competent authority for giving the statement in the ongoing investigation to appear before the Competent Authority. Learned Counsel Mr. Jetly stated that the date on which such statement would be recorded, will be communicated to the petitioners by the concerned authority. Such date shall not be later than 20th December, 2018. Counsel for the petitioners stated that the petitioners would appear before the authority as called upon to do and give full co-operation in the ongoing investigation.

4. Since we do not have the full details of the investigation, it would not be proper for us to give any rigid time frame for completing the same. It was however, stated by Mr. Jetly that the investigation is at an advanced stage. The authorities would attempt to complete the investigation as expeditiously as possible and issue a show-cause notice to the petitioners, if upon completion of investigation the case for proceeding further is made out. This may be done preferably by 31st March, 2019.

5. In view of these directions, we do not find it necessary to direct the respondents to lift the attachment at this stage.

6. With above observations and directions, the petition is disposed of.

(M.S. SANKLECHA, J.)

(AKIL KURESHI, J.)