

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

WRIT PETITION NO. 4989 OF 2019

VKC Nuts Pvt. Ltd., .. Petitioner.
v/s.
The Union of India & Another .. Respondents.

Mr. Prakash Shah i/b. PDS Legal, for the Petitioner.
Mr. Pradeep S. Jetly with Mr. J. B. Mishra, for the Respondents.

**CORAM: M.S.SANKLECHA, &
M.S.SONAK, JJ.**

DATE : 14th JUNE, 2019.

P.C:-

This Petition under Article 226 of the Constitution of India, challenges the order dated 16th April, 2019 passed by the Commissioner of Customs- Respondent No.2 as an Adjudicating Authority (communicated by the Addl. Commissioner of Customs). The impugned communication allows provisional release of the seized goods under Section 110-A of the Customs Act, 1962 (the Act).

2 The grievance of the Petitioner is that the issue arising in this Petition primarily relates to the availability of the benefit of the duty free export authorization read with Notification No.98 of 2009 dated 11th September, 2009 for import of In-shell walnuts for export of biscuits. This issue, according to the Petitioner stands concluded by the decisions of the Tribunal and the Madhya Pradesh High Court in its favour. The impugned order dated 16th April, 2019 does not take in to account the aforesaid facts and consequently directing a bank guarantee for 50% of the value as a condition for grant of provisional release.

3 Mr. Jetly, the learned Counsel appearing for the Respondents state that, there is an alternate remedy available for filing an appeal against the impugned order dated 16th April, 2019. Nevertheless, on instructions, he very fairly states that, the impugned order dated 16th April 2019 has not taken into consideration the Petitioner's contention and, therefore, the Commissioner of Customs, as an adjudicating authority will hear the Petitioner's contention for release of goods and pass appropriate order on or before 28th June, 2019.

4 In view of the statement made on behalf of the Respondents, Mr. Shah, learned Counsel appearing for the Petitioner, on instructions, seeks to withdraw this Petition, with liberty to urge all other contentions before an appropriate forum. Liberty as prayed for, granted.

5 **Petition disposed of as withdrawn** with the above liberty.

(M.S.SONAK,J.)

(M.S.SANKLECHA,J.)