

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

WRIT PETITION NO. 11583 OF 2019

Jindal Drugs Pvt. Ltd.

.. Petitioner

v/s.

The Union of India & Ors.

.. Respondents

Mr. Prakash Shah a/w Mr. Mihir Mehta, Mr. Mohit Ravat i/b PDS
Legal for the petitioner

Mr. M. Dwivedi a/w Mr. J.B. Mishra for the respondent nos. 1 to 3

Mr. Pradeep S. Jetly a/w Mr. Jitendra B. Mishra for respondent nos. 4
and 5

**CORAM : M.S. SANKLECHA &
NTIN JAMDAR, J.J.**

DATED : 14th NOVEMBER, 2019

P.C.

1. This petition has been essentially filed for implementation of the order dated 24th June, 2019 passed in Writ Petition No.1531 of 2019. The order dated 24th June, 2019 reads as under :-

“1. This Petition under Article 226 of the Constitution of India seeks a direction to the Respondents-Customs to grant the petitioner a refund of the IGST paid in accordance with the Integrated Goods & Services Tax Act. The refund is sought by claiming drawback on manufactured goods exported under 15 shipping bills.

2. After the matter was argued for sometime, prima facie it was an agreed position between the parties that before a claim for, drawback can be sustained, 15 shipping bills under which the goods have been exported would have to

be necessarily amended/rectified. This mistake in the shipping bills according to the petitioner was an inadvertent error.

3. In view of the above, the learned counsel appearing in support of the petitioner seeks to withdraw the Petition with a liberty to approach the respondent under the proviso to section 149 of the Customs Act, 1962. We, however, make it clear that the issue of application of proviso to section 149 to the facts of this case would be considered in accordance with the law by the authority to whom the application for rectification is made.

4. Liberty as prayed is granted, as sought.

5. Mr. Shah, learned counsel for the petitioner states that the petitioner will make an application for rectification of the 15 shipping bills under section 149 of the Customs Act, 1962 within a period of 7 days from today. In case such applications are made, then needless to state that the respondents will decide the same as expeditiously as possible.

6. Petition is disposed of as withdrawn with the above liberty.”

2. Consequent to the above order, the petitioners made applications for rectification of 15 shipping bills to the respondent nos. 3 and 5 by communication dated 26th June, 2019 and 27th June, 2019 respectively. Despite the aforesaid applications, the respondents have not taken any decision as directed by this Court in its order dated 24th June, 2019 in Writ Petition No.1531 of 2019.

3. Today, Mr. Dwivedi, learned Counsel appearing for respondent no. 3, on instructions, states that the petitioners' application dated

26th June, 2019 would be disposed of by respondent no. 3 within a period of 4 weeks from today after following the principles of natural justice.

4. So also, Mr. Jetly, learned Counsel appearing for the respondent no.5, on instructions, states that he will dispose of the petitioners' application within 4 weeks from today after following the principles of natural justice.

5. The aforesaid statements have been made by the learned Counsel Mr. Dwivedi for the respondent no.3, on instructions of Mr. Shivendra Das, Assistant Commissioner, IGST, Air Cargo. While the aforesaid statement has been made by Mr. Jetly for the respondent no.5 on instructions of Mr. Pankaj Paul, Superintendent, Drawback, JNCH on behalf of respondent no.5. We accept the statements.

6. The petition is disposed of in the above terms.

(NITIN JAMDAR, J.)

(M.S. SANKLECHA, J.)