

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

WRIT PETITION NO. 1271 OF 2019

Gold Star Line Ltd. & Anr.

.. Petitioners

v/s.

Commissioner of Customs,
(Disposal Section) & Ors.

.. Respondents

Mr. Shrinivas Deshmukh a/w Ms. Smruti Jha i/b Mulla & Mulla for the petitioners

Mr. Pradeep S. Jetly for the Revenue

Ms. Priyanka Patel i/b V. Subramaniam for respondent no.4

Mr. Mohammedali Chunawalla a/w Anusha Amin for respondent no.3 and Ms. Bhavana Gharpinde, Design Assistant Plant Protection Officer (APPO), present in Court

Mr. Arnab Ghosh a/w Mr. Manoj Khatri for respondent no.6

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

DATED : 29th AUGUST, 2019

P.C.

1. This petition seeks a direction to respondent no.1 – Commissioner of Customs, respondent no.2 – Deputy Commissioner of Customs and respondent no.3 – Deputy Director, Plant and Protection, Quarantine and Storage, to release and direct the return of the petitioners four containers i.e. Container Nos. TRIU8198706, TRIU8730081, JXLU5105200 and ZCSU5126938 (four containers)

in possession of the Container Freight Station (CFS) i.e. respondent no.5 (one container) and respondent no.6 (three containers). These four containers contain plants, which have been abandoned by the importers. None appears for the importers.

2. These four containers were kept on hold by the customs in view of investigation by the (respondent no.3) competent Authority in respect of importing of the goods in the containers. The respondent no.3 is an officer of the Directorate of Plant and Protection, Quarantine and Storage, Ministry of Agricultural and Farmers Welfare - Union of India. The Customs i.e. respondent nos. 1 and 2 cannot issue / grant permission for sale of the goods in the containers in the absence of clearance of respondent no.3.

3. Mr. Chunawalla, learned Counsel appearing for the respondent no.3, on instructions, states that his Officers would reinspect the four containers from the angle of plant quarantine. If found compliant and / or otherwise permissible would issue NOC to the Customs Department. This, on instructions he answers us would be done within a period of one week from today. In case the respondent no.3

finds it appropriate to issue a NOC to the Customs Department then, the Customs Department i.e. respondent nos. 1 and 2 would act upon the same and issue necessary permission in terms of Section 48 of the Act within a period of two weeks from the date of receipt of the NOC from respondent no.3 i.e. Deputy Director, Plant and Protection, Quarantine and Storage. It is made clear that it would be for the respondent no.3 to examine the plants in the four containers and act in accordance with law. This order should not be misconstrued as a direction to the respondent no.3 to issue a No Objection Certificate.

4. Accordingly, the petition is disposed of in the above terms.

(NITIN JAMDAR, J.)

(M.S. SANKLECHA, J.)