

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.3412/2019

Shah Nanaji Nagasi Exports Pvt. Ltd. Vs. Union of India and others.

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Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

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Shri M. G. Bhangde, Senior Advocate assisted by Shri Shyam Dewani,
Advocate for the petitioner.
Shri U. M. Aurangabadkar, Assistant Solicitor General of India for
respondent No.1.
Shri S. N. Bhattad, Advocate for respondent Nos. 4 and 5.

CORAM : R.K. DESHPANDE &
A.S. CHANDURKAR, JJ.
DATED : 09th JANUARY, 2020.

. This petition claims the relief as under.

“a) Declare that the action of the Respondents is not in consonance with the Judgment and Order dated 29.03.2019 passed by this Honourable Court in Writ Petition No.8268/2017 and therefore the same is absolutely illegal and improper;

b) Direct the Respondent Nos. 2 & 3 to issue all pending duty free import authorisations under the DFIA scheme in accordance with the directions issued by the Honourable Court vide Judgment and Order dated 29.03.2019 passed in Writ Petition No.8268/2017;

c) *Direct the Respondent No.4 and 5 to clear the future imports of Maize Cargo of the Petitioner under DFIA Licenses without insisting for payment of custom duties in respect of the authorisations granted to the Petitioner under the DFIA scheme, in the peculiar facts and circumstances of the case and in the interest of justice;*

d) *Issue ad-interim relief of directing the Respondent Nos. 2 and 3 to issue pending authorisations to the petitioner under DFIA scheme;*

e) *Issue ad-interim relief directing the respondent No.4 and 5 to clear the future imports of Maize Cargo of the Petitioner under DFIA Licenses;*

f) *Direct the respondent No.5 to return the bank guarantees submitted by the petitioners details of which are given in ANNEXURE– F forthwith;*

g) *Issue ad-interim relief directing the Respondent No.5 to not to invoke Bank Guarantees of the Petitioner, during the pendency of the present petition;*

h) *Quash and set aside the show cause notice dated 25.10.2018 i.e. ANNEXURE-G issued by respondent No.3, the same being*

in violation of judgment and order dated 29.3.2019 passed in Writ Petition No.8268/2017 by this Honourable Court;

i) Direct the respondent No.4 to refund the amount of Rs.2,50,00,000/- to the petitioner, which were paid by the petitioner under protest for getting released the consignment;

j) And be further pleased to pass any other order as may be deemed fit and proper in the circumstances of the case.”

2. After issuance of notice to the respondents, the matter was heard on several occasions and orders were passed from time to time. It is unfortunate that though the respondents decided not to challenge the decision of this Court by filing appropriate proceedings before the Apex Court, delayed the matter to implement the decision given by this Court. Consequently, this Court was required to spent time on every occasion to hear the matter and pass further orders. Now the pursis is filed by respondent Nos. 1 to 3 and the same reproduced below.

“The counsel for the Respondents respectfully submits that he has received a communication from the Additional DGFT, Regional Office, Nagpur stating that he is directing his subordinate officers to issue DFIA's to the Petitioner in compliance of

the order passed by this Hon'ble Court in WP No.8268/2017 and as per the provisions of prevalent policy which was in force on the date of export i.e. between 18.9.2017 to 21.03.2018 i.e. on production of self certified copy of shipping bill.

Hence, this pursis."

3. There is a delay in implementation of the Judgment from 29.03.2019 till 09.01.2020. It is not disputed by the Senior Counsel Shri. M. G. Bhangde, appearing for the petitioner that all the reliefs claimed in this petition do not survive in view of the pursis filed, except the relief in terms of prayer clause – (h) regarding quashing and set aside the show cause notice dated 25.10.2018.

4. In view of the aforesaid pursis, in our view, the issuance of show cause notice loses its significance and hence, we quash and set aside the show cause notice dated 25.10.2018, which is contrary to the decision given by this Court in Writ Petition No.8268/2017.

5. We therefore, direct the respondent Nos. 1 to 3 to pay costs of Rs.25,000/- (Rs. Twenty Five Thousands only) to the petitioner within a period of eight weeks from today.

6. Writ Petition stands disposed of.

JUDGE

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