

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1134 OF 2019

Abhilasha Pharma Pvt. Ltd.

.....Petitioner

Vs.

The Union of India and Ors.

.....Respondents

Mr. Prakash Shah a/w Mr. Jas Sanghavi i/by PDS Legal for Petitioner.
Mr. Pradeep Jetly, Senior Advocate a/w J. B. Mishra for Respondent Nos.1 to 3.

CORAM : K. R. SHRIRAM &
A. S. DOCTOR, JJ.
DATE : 18th AUGUST, 2022.

P.C.:-

1. By the present Petition, Petitioner has challenged the action of Respondents in not assessing Bill of Entry No.9588466 dated 10.01.2019 filed by Petitioner and not allowing clearance of “Thiourea 99% min” imported by Petitioner falling under Chapter 29 of the First Schedule to the Customs Tariff Act for home consumption, for want of import permit issued by Respondent No.3.

2. In pursuance of the order dated 31.01.2019, passed by this Court in this Petition, the goods imported by Petitioner and covered under Bill of Entry No.9588466 dated 10.01.2019, were provisionally allowed to be cleared for home consumption.

3. Petitioner contends that “Thiourea 99% min” have multiple

uses which are non-insecticidal purpose.

4. Petitioner further contends that the Customs, Excise and Service Tax Appellate Tribunal in the case of Parshwa Associates reported in 2017 – TIOL – 1771-CESTAT- Mum and in the case of Pankaj Kumar and Co. vide Order dated 29.12.2017 in Appeal No. C/147/2009 – CU has held that there is no need for registration under Insecticides Act for the goods classifiable under Chapter 29 of the First Schedule to the Customs Tariff Act, viz-a-viz, “Thiourea 99% min”.

5. Petitioner further contends that, pending hearing of the above Petition, Respondent No.2, with effect from mid-2020, is allowing clearance of “Thiourea 99% min” imported by Petitioner for home consumption without insisting upon the import permit to be issued by Respondent No.3 under the Insecticide Act, 1968 in view of the DO letter F. No. PCCC/VJ/MISC-01/2019 dated 25.10.2019 issued by the Principal Chief Commissioner of Customs.

6. Petitioner further contends that it has come to Petitioner’s knowledge that by an administrative order, the Central Insecticide Board has also held that no import permit is required for import of goods falling under Chapter 29 of the First Schedule to the Customs Tariff Act.

7. Petitioner states that it will make all these submissions to the proper officer who can finalize the Bills of Entry by considering the submissions made by Petitioner.

8. In view of the aforesaid, the proper officer shall finalize Bill of Entry No.9588466 dated 10.01.2019 by passing a speaking order, after taking into consideration the submission of Petitioner and after complying with the principles of natural justice within a period of six weeks from today. Before passing the order, Petitioner shall be given a personal hearing with at least 7 working days advance notice.

9. It clarified that the rights and contentions of Petitioner are kept open. We clarify that we have not made any obsevation on the merits of the matter.

10. The Writ Petition is disposed with no order as to costs.

(A. S. DOCTOR, J.)

(K. R. SHRIRAM, J.)