

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4244 OF 2022

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IDL Explosives Limited

..... Petitioner

Vs.

Union of India & Ors.

..... Respondents

Mr. Sujay Kantawala, Mr.Mridul Sharma a/w Mr.Sujit Sahoo
and Mr.Aditya Talpade i/b M/s.Legal for the Petitioner

Mr.P.S.Jetley Senior Counsel a/w Mr.J.B.Mishra a/w
Ms.Sangeeta Yadav for the Respondent nos.2 and 3 (UOI)

**CORAM: S.V. GANGAPURWALA &
VINAY JOSHI, JJ.**

DATED : APRIL 12, 2022

P.C.

1 We have heard the learned counsel for the Petitioner
and the learned Senior Counsel for the respondents.

2. The learned counsel for the petitioner Mr.Sujay
Kantawala submits that the petitioner imported the
Ammonium Nitrate from its supplier in Uzbekistan. The
Commodity was transported through road and it had to pass
through various countries. One such country was Iran. It is
submitted that the documents placed on record would
indicate that the consignor is from Uzbekistan and
consignee is the Petitioner. The official documents issued by

the department of the foreign countries are also placed on record to substantiate the contention of the petitioner. Only because the produce had to pass through the port in Iran that would not mean that the produce is imported from Iran. Respondents are misinterpreting the documents placed by the petitioner and are illegally asking the petitioner to deposit anti dumping duty as per Circular dated 12.09.2017. The petitioner has already deposited duty of Rs.30,00,000/-. The learned advocate further submits that Ammonium Nitrate is highly inflammable and even as per the policy of the Government, same cannot be stored in the port. Ammonium Nitrate is in short supply and is required by the public sector undertakings such as Coal India Ltd. Petitioner is regular supplier of detonators. Whenever Ammonium Nitrate is imported into India from subject countries such as (Russia, Indonesia, Georgia and Iran), petitioner has paid anti dumping duty.

3. The learned Senior Counsel for the respondents submits that investigation has been made. Same has been completed and within a week, show cause notice would be issued to the petitioner. During investigation, it has been observed that the said Ammonium Nitrate has been imported from Iran. Documents were in Persian language. Same has been translated and it has been observed that the said product is from Iran.

4. We have considered the documents placed on record. In writ jurisdiction, it may not be possible to embark upon the investigation of facts. The investigation has been done

by the respondents and as contended by the learned Senior Advocate for the respondent within a week, petitioner would be issued with show cause notice.

5. Considering that the respondents and the petitioner are relying on the documents which run counter to each other, it may not be possible to conclusively pass the order. Respondents in the affidavit has averred that if the petitioner pays anti dumping duty, petitioner is free to take the goods on no use bond in terms of Circular dated 16.08.2017. There is no point in asking the petitioner not to use the said goods after paying anti dumping duty as is contemplated under the notification dated 12.09.2017. Moreover, the said Ammonium Nitrate would be required for supply of detonators to the Coal India Limited for production and manufacture of coal which is in short supply.

6. In light of that we pass the following order:

a. Petitioner may deposit the anti dumping duty as per the notification dated 12.09.2017. On deposit of the anti dumping duty as per the notification dated 12.09.2017 respondent shall permit the petitioner to take back the goods i.e. Ammonium Nitrate seized by the Respondent under the Seizure Memo dated 14.03.2022 without insisting for the no use bond.

b. Anti dumping duty deposited by the Petitioner shall be subject to the decision that may be taken pursuant to the

show cause notice and further proceedings.

c. Writ Petition is disposed of. No costs.

(VINAY JOSHI, J.)

(S.V. GANGAPURWALA, J.)