

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 254 OF 2021

M/s. J.D. Diamonds

.. Petitioner

Versus

Jayshankar Prakash Upadhyay,
Joint Commissioner of Customs Airport Special
Cargo Commissionerate & Ors.

.. Respondents

-
- Mr. Brijesh Pathak for the Petitioner
 - Mr. Pradeep Jetly, Senior Advocate a/w Mr. J.B. Mishra and Ms. Sangeeta Yadav for the Respondents
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**CORAM : K. R. SHRIRAM &
MILIND N. JADHAV, JJ.**

DATE : JUNE 27, 2022

P.C.:

1. Petitioner is alleging contempt by respondents. According to petitioner, there is willful disobedience of the orders passed by this court.

2. By an order dated 24.02.2021, respondent was directed to consider petitioner's application for provisional release of the export consignment under section 110A of the Customs Act ("**the Act**" for short) in Writ Petition (st) No. 99658 of 2020. Following the direction, the office of the Principal Commissioner of Customs (II) (Airport Special Cargo Commissionerate) by an order dated 11.03.2021 ordered provisional release of the goods under section 110A of the Act on the following conditions:-

- "a. The owner of the goods shall furnish a Bond equal to FOB value of the goods.*
- b. The owner of the goods shall furnish a security in form of Bank Guarantee or Revenue Deposit equal to 20% of the declared FOB value of the goods.*
- c. The goods shall be released provisionally after submission of all the relevant documents as stated above and other documents as may be required under the provisions of Customs Act 1962."*

3. According to petitioner, these conditions were met by petitioner but still respondents did not release the goods. Petitioner, therefore, took out civil interim application in writ petition (st) No. 99658 of 2020. In the order dated 03.08.2021, this court recorded the statement of the counsel for respondents that two weeks' time may be granted for provisional release of the relevant goods.

4. Mr. Jetly states that this statement was not acted upon because in similar matters, the Apex court in its order dated 06.08.2021 granted stay to release of the goods. Mr. Jetly states that respondents have filed another Special Leave Petition (SLP) against the order dated 24.02.2021 by which this court had directed respondents to consider petitioner's application for provisional release. The SLP(C) is numbered as 13196/2021 and the SLP in which the order dated 06.08.2021 was passed is SLP (C) No. 11274/2021.

5. On 20.06.2022, the vacation bench of the Apex court directed the SLP filed by revenue against petitioner to be posted along with SLP (C) No. 11274/2021 in which the order dated 06.08.2021 was passed.

We agree with Mr. Jetly that by tagging this SLP against petitioner's SLP along with other petitions where stay has been granted, there is an implied order of stay. In these circumstances, we also note Mr. Jetly's statement that all these matters are scheduled to be heard on 17.08.2022. In any case, we cannot state that there was willful disobedience of the orders of this court. Contempt petition accordingly stands dismissed.

[MILIND N. JADHAV, J.]

[K. R. SHRIRAM, J.]

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