

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

WRIT PETITION NO.3045 OF 2019

GE T and D India Ltd.

....Petitioner

V/s.

Union of India and Ors.

....Respondents

Mr. Sriram Sridharan for petitioner.

Mr. Pradeep S. Jetly, Senior Advocate a/w. Mr. Jitendra Mishra and
Ms. Sangeeta Yadav for respondent nos.1 to 3.

**CORAM : K.R. SHRIRAM &
A.S. DOCTOR, JJ.
DATED : 26th JULY 2022**

PC.:-

1 Petitioner is impugning an order dated 8th October 2018 passed by respondent no.3 ordering confiscation of imported goods valued at Rs.74,51,065/- under Section 111(o) of the Customs Act, 1962 (the said Act), fine of Rs.18,00,000/- under Section 125 of the said Act, recovery of duty saved/forgone amount of Rs.17,25,608/- alongwith applicable interest in terms of conditions of advance authorization and penalty of Rs.1,70,000/- under Section 112 (a) of the said Act. According to petitioner this order has been passed without even issuing a show cause notice to petitioner and, therefore, the order has to be quashed and set aside.

2 Mr. Jetly submitted that in this case even a personal hearing was granted on 17th September 2018 but petitioner did not attend and, therefore, petitioner cannot raise any grievance today.

3 We have considered the petition, reply as well as rejoinder and also heard Mr. Sridharan and Mr. Jetly.

4 A show cause notice dated 8th May 2018 had been issued by respondent no.3 but the notice has been sent to an address which did not belong to petitioner. It is respondents' case that the notice was sent to the address which was there in the advance license. As submitted by Mr. Sridharan the address of petitioner had been changed way back in April 2012 and respondents' portal – icegate.co.in also showed the changed address since 2012. Even the impugned order had not been served on petitioner. Mr. Sridharan submitted that petitioner was totally unaware of even the impugned order and came to know about the order only when respondent no.3 put an alert in the Importer-Exporter Code (IEC) of petitioner barring the import/export of petitioner. The reason mentioned in the alert was “*Order-in-Original No.841/2018-19/ADC/NS-V/CAC/JNCH dated 08.10.18.*”

5 In our view, respondent no.3 could have, without much effort, found the correct address of petitioner. Even the website of the Ministry of Corporate Affairs would have provided petitioner's address (Registered). Therefore, we have to and hereby hold that show cause notice itself had not been served on petitioner.

6 Therefore, we hereby quash and set aside the impugned order dated 8th October 2018 and remand the matter for *denovo* consideration.

7 Respondent no.3 to provide a copy of the show cause notice dated 8th May 2018 to petitioner within one week from today. Reply to be filed within two weeks of receiving the show cause notice.

8 Personal hearing to be granted to petitioner within four weeks of filing the reply but atleast seven working days advance notice of the hearing should be given to petitioner. After the personal hearing, should petitioner wish to file written submissions recording what transpired during the hearing, the same to be filed within three days from the date of personal hearing. The show cause notice to be adjudicated within twelve weeks from today.

9 We clarify that we have not made any observation on the merits of the matter.

10 Petition disposed with no order as to costs.

(A.S. DOCTOR, J.)

(K.R. SHRIRAM, J.)