

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.3282 OF 2019**

National Petroleum Construction CompanyPetitioner

V/s.

The Commissioner of Customs (Export) ...Respondent

Mr. Abhishek Rastogi a/w Ms Marmik Kamdar i/b Khaitan & Co. for
Petitioner.

Mr. Sham Walve a/w Ms Sangeeta Yadav for Respondent

**CORAM : K.R. SHRIRAM &
A.S. DOCTOR, JJ**

DATED : 5th AUGUST 2022

P.C. :

1 Petitioner is impugning a show cause notice dated 3rd September 2019 on various grounds including that the show cause notice is vague and in the show cause notice, reliance has been placed only on part of certain notification and not entire notification. Mr. Rastogi submitted that the show cause notice was clearly unfounded and cannot stand the test of legal scrutiny.

2 Whether, the structures that were offloaded at Mumbai Docks and cleared in dismantled / cut smaller structures for home consumption, or it would amount to imported goods or whether, any bill of entry is required to be filed or customs duty is payable are questions of facts, which are required to be enquired into. We do not wish to stall enquiries as proposed and

retarding investigative process to find actual facts with the participation and in the presence of the parties. We cannot say that the show cause notice was totally nonest in the eye of law for absolute want of jurisdiction of the authority to even investigate into facts. Prima facie, we find no reason to interfere with the show cause notice in view of the decision of the Supreme court in *The Special Director and Anr. Vs. Mohd. Ghulam Ghouse & Anr.*¹

3 Petitioner can raise all grounds they wish to, in respect to the show cause notice dated 3rd September 2019 that is impugned in this petition. Mr. Rastogi states that no reply has been filed in view of the stay that was granted earlier against personal hearing notice given by respondent no.1.

4 In our view, this petition is pre-mature. Petitioner may file a reply to the show cause notice within 30 days from today. Whether the show cause notice was founded on any legal premises is a jurisdictional issue which can even be urged by petitioner and such issues also can be adjudicated by the authority issuing the impugned show cause notice. Respondent no.1 to consider the submissions raised by petitioner in respect to the show cause notice and pass a reasoned order dealing with every submission made by petitioner. Before passing an order, respondent no.1 shall grant a personal hearing to petitioner and notice of personal hearing shall be given atleast 7 working days in advance. Should petitioner wish to file written submissions to record what has transpired during the personal hearing, the same to be filed within three working days of the personal hearing.

1 (2004) 3 SCC 440

5 We clarify that we have not made any observations on the merits of the case.

6 Petition accordingly disposed.

(A. S. DOCTOR, J.)

(K.R. SHRIRAM, J.)