

WRIT PETITION NO.5976/2010

- Versus -

Mr. S.N. Bhattad, Advocate for Respondent Nos. 1 and 2.

DATE : 5 MAY 2022

P.C. :

Heard the learned Counsel for the parties.

2. The Petitioner is an auction purchaser from the auction held by Respondent No.3 Bank under the provisions of the Securitization and Reconstruction of Financial Asset and Enforcement of Security Interest Act, 2002. The Petitioner is

aggrieved by the notice issued by the Respondent-Customs and Central Excise Department, calling upon the Petitioner to pay the dues.

3. As regards the priority of charge, the learned Counsel for the parties have placed on record the decision of the Hon'ble Supreme Court in the case of *Punjab National Bank versus Union of India and others*¹ wherein it is held that the secured creditors would have priority over the dues of the Central Excise Department. In light thereof, the declaration as sought for by the Petitioner that it will be secured creditors dues that will have priority and notice issued by the Respondent-Customs and Central Excise Department will not survive, will have to be accepted.

4. Accordingly, Rule is made absolute in terms of prayer Clause (ii) by quashing and setting aside the impugned notice dated 27 September 2010.

5. The Writ Petition is accordingly disposed of.

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6. The amount deposited by the Petitioner pursuant to the interim order of this Court be refunded to the Petitioner along with accrued interest.

(ANIL L. PANSARE, J.)

(NITIN JAMDAR, J.)