



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Decision delivered on: 31.05.2022*

+ **W.P.(C) 7830/2022**

M/S ZUHOOR INTERNATIONAL

..... Petitioner

Through: Dr G.K. Sarkar, Mrs Malabika Sarkar,
Mr Prashant Srivastava and Mr Deepak
Mahajan, Advs.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr Harpreet Singh, Sr. Standing Counsel
with Ms Suhani Mathur, Adv. for
revenue.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

CM No.23929/2022

1. Allowed, subject to just exceptions.

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2. We have heard the learned counsel for the parties for some time.

3. We may note that Mr Sushil Chandra, Additional Commissioner of Customs, who has passed the order dated 29.04.2022 i.e., the order concerning provisional release of the subject goods under Section 110A of the Customs Act, 1962 [in short 'the 1962 Act'], has joined the proceedings.

3.1. We have queried Mr Chandra as to whether Rs.1.5 crores, admittedly, deposited by the petitioner, concerns subject goods as well.

3.2. Mr Chandra, who is assisted by Mr Harpreet Singh, learned senior standing counsel appearing on behalf of respondents/revenue, accepts that Rs.1.5 crores deposited by the petitioner concerns, at least partly, the subject imports.

3.3. We have also queried Mr Chandra as to whether any adjudication order

has been passed *vis-à-vis* subject imports. Mr Chandra, candidly, states that such adjudication order has been passed.



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4. Dr G.K. Sarkar, who appears on behalf of the petitioner, draws our attention to the communication dated 09.03.2022 titled “TO WHOMSOEVER IT MAY CONCERN”. [See page 71 of the case file.]

4.1. Dr Sarkar emphasizes the fact that Rs.1.5 crores was deposited at the behest of the importer i.e., M/s Xion Foods, from whom the petitioner had purchased the subject goods.

5. Furthermore, our attention has also been drawn by Dr Sarkar to the document appended on pages 73/74 of the case file. This document bears the following title:

“CUSTOMS DUTY/REDEMPTION FINE/PENALTY RECEIPT”

5.1. This document has been generated by the Senior Intelligence Officer of the Government of India, Ministry of Finance, Department of Revenue, Pune Regional Unit, Pune. The document clearly states the following:

“You are requested to accept the above payment made by M/s XION Foods (IEC No.0515036510) towards differential customs duty payable in respect of various Bills of entry for the period Oct. 2017 to Feb 2022.”

6. Clearly, even according to the respondents/revenue, as noted above, a part of the deposit made by the petitioner is towards the subject imports.

6.1. Mr Chandra and Mr Singh, albeit on instructions, have clearly stated, as noted above, that qua the subject imports, no adjudication order has been passed.

6.2. Therefore, the only inference that we can draw is that the petitioner deposited the money at the behest of the importer M/s Xion Foods, to enable the release of the subject goods.

6.3. Thus, according to us, the conditions imposed in the order dated 29.04.2022 appear to be onerous.

7. We have put to Mr Chandra, as to whether the respondents/revenue be agreeable to the release of the subject goods upon the petitioner furnishing a bank guarantee for the differential duty i.e., the amount equivalent to Rs.32,69,000/- and upon a bond being executed for the full value/estimated value of the subject goods.



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7.1. Mr Chandra and Mr Singh say that they would have no objection, if such a direction is issued by the Court.

7.2. It is ordered accordingly.

8. Thus, with the consent of the learned counsel for the respondents/revenue, the matter is disposed of in the aforesaid terms.

8.1. Upon fulfilment of the conditions set out in paragraph 7 above by the petitioner, the subject goods will be released forthwith by the respondents/revenue.

8.2. The parties will act, based on the digitally signed copy of this order.

9. List the matter for compliance on 03.06.2022.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

MAY 31, 2022/aj

[Click here to check corrigendum, if any](#)