

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.3950 OF 2023**

Osian Multitrade Exports LLP ... Petitioner

V/s.

Union of India and ors. ... Respondents

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Dr.Sujay Kantawala with Mr.Anupam Dighe, Ms.Chandni Tanna and Mr.Prathamesh Chavan i/by M/s India Law Alliance, Advocates for the Petitioner.

Mr.Jitendra Mishra with Mr.Dhananjay B. Deshmukh and Mr.Ashutosh Mishra, Advocates for the Respondents.

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**CORAM : NITIN JAMDAR AND  
ABHAY AHUJA, JJ.  
DATE : 17 APRIL 2023.**

**P.C.:-**

1. This Petition has sought to challenge the Seizure Memo dated 9 January 2023 issued by Respondent No.2. By this Seizure Memo, the goods imported by the Petitioner under Bill of Entry dated 6 December 2022 have been, *prima facie*, found by the Superintendent of Customs not in the line of entry made under section 46 of the Customs Act, 1962. Thereafter, the goods have been seized. The petition is moved on 23 March 2023 for a direction to set aside the

Seizure Memo and direct Respondent No.2 to unconditionally release the goods imported by the Petitioner.

2. It is the contention of the Petitioner that the goods-cotton have been exported from Afghanistan to Mumbai and it has followed the established export routes. According to the Respondents, the goods have been imported from Pakistan and the Petitioner has relied upon the communication and Certificate of Consulate General of Islamic Republic of Afghanistan addressed to the Ministry of External Affairs and Commissioner of Customs stating that the Afghanistan does not produce packing sacks and the sacks were manufactured in Pakistan and goods-cotton is from Afghanistan. The Petitioner has also relied upon the certificate of origin.

3. The reply affidavit is filed on behalf of the Respondents No.1 and 2 by the Commissioner of Customs, (General), Mumbai. According to the Respondents, the examination of the goods would show that the goods are marked as "Made in Pakistan". The learned counsel have shown photographs where some bags have "Made in Pakistan" prominently displayed.

4. We are informed by the Respondents that on 10 April 2023 the show cause notice is issued to the Petitioner. Therefore, the matter has now moved from the Seizure Memo to issuance of show cause notice.

5. Since various disputed facts would arise for adjudication, we are not inclined to interfere in writ jurisdiction. The Petitioner would have opportunity to reply to the show cause notice and put forth its case as sought to be urged before us.

6. Learned counsel for the Petitioner states that at least some part of the goods be released and, for that purpose, the Petitioner is ready to deposit 7.5% of the value of the goods. We leave it open for the concerned authority to consider this request of the Petitioner as per law, which the Petitioner is free to make.

7. As regards, the expeditious disposal of the proceedings pursuant to the show cause notice is concerned, we accede to the prayer of the Petitioner for early disposal. However, we also have to keep in mind that the authority needs to give hearing to the Petitioner and therefore, subject to earlier time-bound commitments and the Petitioner filing reply to the show cause notice within a period of one week, final order be passed within a period of four weeks.

8. Writ Petition is accordingly disposed of as above.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)

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