

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7148 OF 2004

Tripod Textiles Exports Pvt. Ltd. ... Petitioner

Versus

The Union of India and ors ... Respondents

Mr. Prakash Shah a/w Mr. Jus Sanghavi i/b. PDS Legal for the  
Petitioner.

Mr. J. B. Mishra a/w Mr. Dhananjay Deshmukh for Respondent  
Nos.1 to 3.

**CORAM :** NITIN JAMDAR AND  
ABHAY AHUJA, JJ.

**DATE :** 03 APRIL 2023.

**P.C. :**

1. Heard the learned counsel for the Parties.
2. The Petitioner has filed the Writ Petition for the following  
reliefs in terms of prayer Clauses (a) and (b) which read thus:

a) *that this Hon'ble Court be pleased to issue a writ of  
Certiorari or a writ in the nature of Certiorari or  
any other writ, order or direction under Article 226  
of the Constitution of India, calling for the records  
pertaining to the Petitioners' case and after going into  
the legality and validity thereof to quash and set  
aside the impugned order dated June 30, 2004 of  
Respondent No.2 (being Exhibit "A" hereto) and*

*detention memo dated July 1, 2004 of Respondent No.3 (being Exhibit "B" hereto);*

*(b) that this Hon'ble Court be pleased to issue writ of Mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India ordering and directing Respondents, their subordinate servants and agents:*

*(i) to refrain from taking any steps or proceedings pursuant to or in implementation or furtherance of the impugned order dated June 30, 2004 of Respondent No.2, (being Exhibit "A" hereto) and detention memo dated July 1, 2004 of Respondent No.3 (being Exhibit "B" hereto);*

*(ii) to withdraw and/or cancel the impugned order dated June 30, 2004 of Respondent No.2 (being Exhibits "A" hereto) and detention memo dated July 1, 2004 of Respondent No.3 (being Exhibit "B" hereto);*

3. The Petitioner had also sought interim order. When Writ Petition came up for hearing on 31<sup>st</sup> August, 2004 and the following order was passed:

- 1. Heard*
- 2. Rule. Returnable early.*
- 3. Mr. A.S. Rao, the learned counsel waives service for the respondents.*
- 4. Rule on stay returnable forthwith. Subject to petitioner's furnishing bank guarantee in the sum of Rs.25,00,000/- to the satisfaction of the Assistant Commissioner of Central Excise, Division – North Daman, Daman for due payment of the duty that may be payable by the petitioner upon finalisation*

*of the enquiries / investigations and/or the appellate / revisional order and also an undertaking by the Managing Director / Director of the petitioner company before this court that in the event of any demand of the duty that may be raised upon finalisation of enquiries / investigation commenced against the petitioner and/or appellate / revisional order, the operation of the suspension order dated June 30, 2004 (Exhibit 'A') and the detention order dated July 1, 2004 (Exhibit 'B') shall remain stayed.*

5. *Parties may be provided ordinary copy of this order duly authenticated by the Court Sheristedar on payment of usual copying charges.*

4. Learned counsel for the Petitioner states that thereafter the matter has proceeded further and final orders have been passed which are challenged by the Petitioner by filing Appeal in which the Petitioner has deposited the requisite 7.5% of demand amount. He states that in view of the deposit, there is an automatic stay operating in favour of the Petitioner. He states that in view of the further development where the final order has been passed, the impugned orders in this Petition have lost its legal efficacy, so also interim order need not be continued and the bank guarantee be returned to the Petitioner. There is no dispute regarding this position.

5. In the light of this development that the impugned orders now stand merged in the final order dated 26 November 2019 which is the subject matter of Appeal which was being contested and considered by the Appellate Tribunal, we dispose of the Writ Petition. Ad-interim order operating in favour of the Petitioner does

not survive and therefore, the bank guarantee submitted by the Petitioner stands discharged. The necessary steps be taken accordingly.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)