

JPP

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

***INTERIM APPLICATION NO. 3384 OF 2022
WITH
WRIT PETITION NO. 7565 OF 2019***

The Deputy Commissioner of Customs JNCH,
The Commissioner of Customs, JNCH ... Applicant

In the matter between

ACME Solar Holding Ltd. ... Petitioner

V/s.

Union of India and Ors. ... Respondents

Mr. Shubh Dixit with Vaibhav Patankar i/b. Patankar & Associates
for the Petitioner

Mr. Ashish Mehta with Dhvani Jain for Respondent Nos. 1 and 2

Mr. Pradeep S. Jetly, Senior Advocate with Mr. Ram Ochani for
Respondent Nos. 3 and 4

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

DATE : 07 FEBRUARY 2023

P.C. :-

When the Petition came up on board on 23 January
2023, the following order came to be passed :-

“ In spite of order dated 19 December 2022, the Petition is not being argued before us by the Petitioner on the ground of the personal difficulty of the arguing counsel. The Petition is pending since the year 2019. An ad-interim order was passed in favour of the Petitioner on 15 July 2019 where the application for modification of the ad-interim order is filed by the Respondent – Revenue on 7 December 2020. No reply to this application is filed. The Petitioner has changed its Advocate without even bothering to file reply and the Petition is being adjourned on the above count.

2. In the light of the order dated 19 December 2022 and that the application has gone unchallenged, we would have proceeded to allow the application. However, the learned Counsel for the Petitioner states that the reply to the application demonstrating why modification should not be granted will be filed within a period of one week, we defer the hearing of this Petition along with the Application to 7 February 2023.

3. If reply is not filed within a period of one week, it will be presumed that the Petitioner is not contesting the Application and the same will be granted on that basis on the next date.”

2. Reply affidavit is filed on behalf of the original Petitioner to the Interim Application.

3. Heard the learned Counsel for the parties.

4. By the Interim Application, the Respondents have made the following prayer :-

“(a) This Hon’ble Court be pleased to modify the order dated 15.07.2019 by replacing the condition of 50% Safeguard Duty and 50% Bond with a condition to allow clearance on payment of 50% Safeguard Duty Payment and balance 50% Bank Guarantee from the importer/Petitioner.”

5. In the reply affidavit sworn by Ajay Kumar Pradhan, the authorized signatory of the Petitioner – Company, it is stated on oath that the Petitioner has deposited the entire amount of safeguard duty pertaining to the impugned bills of entry and therefore, the modification as sought for by the Respondents stands already granted and therefore, nothing survives in this Petition.

6. The learned Counsel for the Applicant – Original Respondent states that in the light of this affidavit appropriate order may be passed.

7. In view of the statement made on oath by the authorized signatory of the Petitioner, which we accept, the Interim Application has become infructuous and is disposed of as such.

8. List the Petition on board under the caption “For Admission” on its assigned date.

ABHAY AHUJA, J.

NITIN JAMDAR, J.