

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

WRIT PETITION NO. 7570 OF 2008

M/s. Dynasty Developers Private Limited ... Petitioner

vs.

Union of India & Ors. ... Respondents

WITH

WRIT PETITION NO. 7072 OF 2008

Manjari Stud Farm Pvt. Ltd. ...Petitioner

vs.

Union of India & Ors. ... Respondents

.....

Mr. Aditya Chitale for the Petitioner in both the petitions.

Ms. Shehnaz V. Bharucha i/b. Mr. A.A.Ansari for Respondent Nos.
1 to 3 in WP No. 7570 of 2008.

Mr. Swapnil Bangur with Mr. Ram Ochani for Respondent No.5-
in WP No.7570 of 2008.

Mr. D.P. Singh for Respondent No.1- UOI in WP No. 7072 of
2008.

Mr.Sham Walve with Mr. Ram Ochani for Respondent No. 5 in
WP No. 7072 of 2008.

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

DATE : 13 JANUARY 2023

P.C. :-

By this Petition, the Petitioner has sought the following relief :

*“(a) that this Hon’ble Court be pleased to
issue a 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 quashing and setting aside the instructions dated 23.5.2008 (at Exhibit "G" hereto) and instruction dated 30.6.2008 (at Exhibit "I" hereto)".

2. While issuing the Rule in Writ Petition No. 7570 of 2008 on 2 December 2008, the Court had directed that this Petition should be heard along with Writ Petition No. 1711 of 2008, that is, M/s. DLF Akroti Info Park Pune Ltd V/s. The Union of India & Ors. Writ Petition No. 1711 of 2008 came up on board on 28 July 2017 and the following order was passed :

"1. The learned counsel for the Petitioner submits that the Petitioner had supplied goods from DTA to SEZ. A Circular dated 30th June 2008, was issued purporting to levy duty. The learned counsel submits that the Gujrat High Court in case of Essar Steel Limited v. Union of India, reported in 2010 (249) ELT 3, had the occasion to address the veracity of the said Circular and the said Circular is set aside by the Gujrat High Court in the above referred case. The Apex Court has confirmed the said Judgment. Mr. Walve, the learned counsel does not oppose this position.

2. In view of the above, Rule is made absolute in terms of prayer clause (a). The Writ Petition is disposed of".

3. The parties are ad-idem that instructions which are impugned in this Petition have been set aside by the High Court of Gujarat in the case of *Essar Steel Limited Versus Union of India*¹. That being the position, the Respondents will not be able to proceed on the basis of the impugned instructions. Clarifying this position, we dispose of the writ petition.
4. The learned Counsel for the parties state that Writ Petition No.7072 of 2008 is identical to Writ Petition No. 7570 of 2008 and this petition also does not survive in view of quashing and setting aside the above mentioned instructions.
5. The writ petitions are accordingly disposed of.

ABHAY AHUJA, J.

NITIN JAMDAR, J.

¹ 2010 (249) E.L.T. 3 (Guj.)