

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11663 OF 2023

Damaan General Trading LLC

...Petitioner

Versus

Union of India & Ors.

...Respondents

Dr. Sujay Kantawala a/w Mr. Anupam Dighe, Ms. Chandni Tanna and
Mr. Prathamesh Chavan i/by India Law Alliance for the Petitioner.
Mr. Advait M. Sethna i/by Mrs. Ruju R. Thakker for the Respondents.

CORAM : G. S. KULKARNI,
JITENDRA JAIN, J.J.

Date : 9th NOVEMBER, 2023.

P.C.

. By this Petition under Article 226 of the Constitution of India,
the Petitioner has prayed for following reliefs :

“a. this Hon’ble Court may be pleased to issue a Writ of Mandamus or an appropriate direction or order directing Respondent Nos.2, 3 and 4 to permit clearance of consignment covered under Bill of Lading No.HLCUDX3230836813 dated 24.08.2023 for re-export on the entire costs which will be borne by the Petitioner;

b. this Hon’ble Court may be pleased to issue a Writ of Mandamus or an appropriate direction or other directing the Respondent Nos.2, 3 and 4 to issue to Detention and Demurrage Waiver Certificate in respect of consignment covered under Bill of Lading No.HLCUDX3230836813 dated 24.08.2023;

2. However, at the time of the hearing, the Petitioner has only prayed that his representation dated 4th September 2023 be decided by Respondent No.3 and by further treating the present petition as

representation in addition to letter dated 4th September 2023.

3. The Petitioner is a company in corporate and based in Dubai, UAE and is engaged in the business of import and export of various commodities around the world. The Petitioner has exported 'Calcium Nitrate' vide Bill of Lading No.HLCUDX3230836813 through the shipping line M/s. Hapag-Lloyd Middle East Shipping LLC. On 30th August 2023, the goods reached Nhava Sheva Port. On 31st August 2023, the Petitioner's supervisor discovered that by mistake Betel Nuts have been loaded into the containers shipped to India, instead of 'Calcium Nitrate'. Immediately thereafter, an email was sent to the shipping line about this mistake and requesting for re-export of the goods wrongly shipped. Thereafter, the Petitioner sought permission of the Respondents to re-export the goods. However, despite multiple request, the Respondents did not respond and it is on this backdrop that the present Petition is filed.

4. The Petitioner submitted that it has made a representation on 4th September 2023 to Respondent Nos.2 and 3 for considering the request to re-export of the goods which were wrongly sent to India. The said request is pending as of today in spite of various reminders by the Petitioner. The Petitioner further submitted that the present petition can also be treated as representation in addition to the letter dated 4th

September 2023 and suitable directions be given to the Respondents to decide the same.

5. The Respondents are represented before us and they have no objection to the aforesaid prayer made by the Petitioner.

6. In view of above, we pass the following order :

ORDER

- (i) Present petition and letter dated 4th September 2023 be treated as representation by the Petitioner to Respondent No.3 on the issues as raised by the Petitioner.
- (ii) Petitioner would appear before Respondent No.3 on 15th November 2023 and make its submissions including written submissions, it so desires.
- (iii) Respondents after hearing the Petitioner shall pass a speaking order deciding the representation on or before 25th November 2023.
- (iv) All contentions of the parties are expressly kept open.
- (v) Writ Petition is disposed of in above terms. No order as to costs.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]