

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 2769 OF 2023

Jindal Drugs Private Limited. ... Petitioner.
V/s.
The Union of India and others. ... Respondents.

Mr.Prakash Shah with Mr.Jas Sanghavi i/b. PDS Legal
for the Petitioner.
Ms.Ruju R. Thakkar with Ms.Pruna Thakkar for the Respondents.

CORAM : NITIN JAMDAR AND
ABHAY AHUJA, JJ.
DATE : 13 April 2023.

P.C. :

Heard the learned counsel for the parties.

2. The Petitioner has sought following reliefs:

(a) *this Hon'ble Court be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction for calling for the records of the present case and after going through the legality and validity thereof be pleased to quash and set aside the Impugned seizure memo nos. 146/21-22 dated 09.02.2021, 04/21-22 dated 16.04.2021 and 05/21-22 dated 16.04.2021.*

(b) *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 or order or direction under Article 226 of the Constitution of India ordering and directing the Respondents themselves, its officers, subordinates, servants and agents to*

forthwith (i) return the Bonds and the Bank Guarantees furnished by the Petitioner for provisional release of the goods covered by impugned seizure memos duly discharged and cancelled (ii) issue Detention and Demurrage Waiver Certificates for Bill of Entry Nos.2370292 dated 15.01.2021, 2679315 dated 08.02.2021 and 2834006 dated 19.02.2021, covering the period from arrival of goods at JNPT till the date of release of goods under section 49 of the Act from CFS into customs bonded warehouse (iii) pay interest @ 18 p.a. on the value of the goods to the Petitioner for business and financial loss caused to the Petitioner of Rs.69,25,876/- due to illegal seizure of the goods, from the date of arrival of goods at JNPT till date and (iv) compensate the costs incurred on bonded warehousing of the goods of Rs.6,90,111/-, from the date of shifting of goods from CFS at JNPT port to the date of provisional release of the goods from bonded warehouse, along with interest @ 18% p.a. from the date of incurring cost by the Petitioner until the date of payment of the same by the Respondents to the Petitioner;"

3. The Respondents had taken an action against the Petitioner based on the premise that what was imported by the Petitioner was Eucalyptol and not Eucalyptus Oil which led to this petition. The Petitioner in this petition has referred to earlier orders passed by this Court in respect of earlier consignments. The learned counsel for the Respondents pointed out that sample drawn from the seized consignment was sent for testing to Geo Chem Laboratories, an accredited laboratory with the Respondent- Department. When the petition came up on board yesterday, a copy of the report was placed on record indicating that the sample was Eucalyptus Oil, however, the learned counsel for the Respondents had taken time till today stating that certain clarifications are required from the laboratory.

4. Today, the learned counsel for the Respondents states that clarification is received from the laboratory confirming that same is Eucalyptus Oil and the sample does not confirm to Eucalyptol. The learned counsel for the Respondents, on instructions from Mr.Rahul Kumar, Appraiser, Nhavaseva, states that in light of the specific report received from the laboratory, necessary action would be taken treating the consignment as Eucalyptus Oil.

5. The learned counsel for the Petitioner points out that duty payable on Eucalyptus Oil is much higher than the Eucalyptol and in that event the Revenue is not at all prejudiced.

6. Be that as it may, since the reports of the laboratory received by the Respondents themselves indicate that it is Eucalyptus Oil, we direct the Respondents to take necessary action on the basis that the goods of the subject consignment are Eucalyptus Oil as per law and as a consequence, the seizure memo will not survive.

7. With these observations, writ petition stands disposed of in the above terms.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)