



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13319 OF 2023

M/s. Fruits And Company

Through its Authorized Representative

...Petitioner

Versus

Union of India And Ors.

...Respondents

Mr. Sujit Sahoo a/w Mr. Pratek Singh for the Petitioner.

Mr. J. B. Mishra a/w Ms. Kavita Shukla for Respondent Nos.1 to 5.

Ms. Sukanya B. for Respondent No.6 (FSSAI)

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

Date : 9th NOVEMBER, 2023.

PC.

. Today we have heard learned counsel for the Petitioner, not only as also on the earlier more than 4 occasions. We have also perused the record. At the outset, the prayers as made in the present petition are required to be noted, which reads thus:-

- a. that this Hon'ble Court be pleased to issue a Writ of Certiorari or any other appropriate Writ, Order or Direction quashing and setting aside the illegal and arbitrary actions of the Respondents towards detaining and withholding clearance of the perishable goods covered under Bill of Entry No.8273591 dated 12.10.2023 and 8277850 dated 13.10.2023 thereby directing the Respondents, their agents, servants and/or subordinates for early release of the imported goods;*
- b. That this Hon'ble Court be pleased to issue a Writ of Mandamus or Writ in the nature of Mandamus or any other appropriate Writ, Order or Direction directing the Respondents, their servants, sub-ordinates or agents -*
 - i) to expeditiously assess and release the perishable goods covered under Bill of Entry Nos.8273591 dated 12.10.2023 and 8277850*

dated 13.10.2023;

ii) to hold and declare that the impugned actions of the Respondents towards illegally detaining and withholding clearance of the perishable goods covered under Bills of Entry Nos.8273591 dated 12.10.2023 and 8277850 dated 13.10.2023, in absence of forming any reasons or order of seizure, is illegal and arbitrary;

iii) to issue any order or direction to the Respondents and its officers restraining the Respondents by themselves, their officers, subordinates, servants and agents from taking any coercive steps or proceedings in pursuance of or in furtherance to the investigation initiated issued by Respondents;

iv) to quash and/or set aside the Seizure Memo dated 20.10.2023 issued by the Respondent No.5

c. Pending the hearing and final disposal of the petition, the Respondents by themselves and their subordinates, servants, agents be directed by an interim order by this Hon'ble Court to:-

I. to expeditiously assess and release the perishable goods covered under Bill of Entry Nos.8273591 dated 12.10.2023 and 8277850 dated 13.10.2023;

II. Not to initiate any actions for disposal of the goods covered under Bill of Entry No.8273591 dated 12.10.2023 and 8277850 dated 13.10.2023.

III. To issue any order or direction, restraining the Respondents by themselves, their officers, subordinates, servants and agents from taking any coercive steps or proceedings in pursuance of or in furtherance to the investigation initiated issued by Respondents;

iv) to quash and/or set aside the Seizure Memo dated 20.10.2023 issued by the Respondent No.5

d. For interim and ad-interim relief in terms of prayer clause (c) above;

e. Such further and other reliefs be granted to the Petitioner as this Hon'ble Court may deem proper and fit in the nature and circumstances of the case.

2. There are certain issues in regard to the prayers for provisional release which have been pressed in the present proceedings.

3. Learned counsel for the Petitioner fairly states that an application for provisional release has already been made by the Petitioner to Respondent No.3-Deputy Commissioner of Customs. In that event, in our opinion, considering the complexion of the present proceedings, it would be appropriate that the Petitioner pursues its

provisional release application as filed under Section 100A of the Customs Act, 1962. All contentions of the petitioner on the merits of such application are expressly kept open.

4. Writ Petition is disposed of in above terms. No costs.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]