

TRUPTI
SADANAND
BAMNE

Digitally signed by
TRUPTI SADANAND
BAMNE

Date: 2023.02.10
16:50:19 +0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 3786 OF 2022

M/s. Mohan Brothers Pvt. Ltd.

... Petitioner

vs.

Union of India & Ors.

... Respondents

.....

Mr.Siddharth Malhotra i/b. Ms.Vibha Ahuja for the Petitioner.

Mr. P.S.Patkar with Mr. Sham Walve for the Respondents.

.....

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

DATE : 7 FEBRUARY 2023

P.C. :-

Heard the learned Counsel for the parties.

2. We have heard this petition from time to time. The Petitioner has filed an additional affidavit stating that the recovery proceedings initiated by Respondent No.2 are without any adjudication under section 28 of the Customs Act, 1962, that is, without providing any opportunity of personal hearing or communication of any final order.

3. The learned Counsel for the Respondents states that the proceedings are not required to be undertaken under section 28 of

the Act of 1962 and they arise from the bond executed by the Petitioner.

4. We find that the notice dated 4 December 2020 relied upon by the Respondents gives no particulars. Either particulars need to be provided in the notice or an opportunity needs to be given. Therefore, the contention of learned Counsel for the Petitioner that the Petitioner is prejudiced cannot be considered as unmeritorious. Appropriate course of action, therefore, would be to direct the Respondents to give an opportunity to the Petitioner to put forth the case and thereafter decide whether the Petitioner is liable to pay the amount of Rs. 38, 82, 982/- referred to in the petition.

5. Since it is stated that the goods have been detained, let this exercise be carried out by the Respondents within a period of two weeks from today.

6. The Respondents will give notice to the Petitioner to remain present before the concerned Officer where the Petitioner can explain position and thereupon the Respondents to take necessary steps/ decision.

7. The writ petition is disposed of.

ABHAY AHUJA, J.

NITIN JAMDAR, J.