

Prajakta Vartak

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11174 OF 2023

Rita Handicrafts India Pvt. Ltd.

..Petitioner

Vs.

Union of India & Ors.

..Respondents

Mr. Anupam Dighe with Ms. Chandni Tanna and Mr. Prathamesh Chavan
i/b. India Law Alliance for Petitioner.

Mr. P. S. Patkar for Respondents.

CORAM : G. S. KULKARNI &
FIRDOSH P. POONTIWALLA, JJ.
DATE : JANUARY 02, 2024.

P.C.:

1. We have heard learned counsel for the parties.
2. The limited prayer as made in the writ petition is that the order-in-original dated 08 February, 2022 passed by respondent no.2 be quashed and set aside on the ground that it is in breach of the principles of natural justice. It appears that a show cause-cum-demand notice dated 02 May, 2018 was received by the petitioner. The petitioner had responded to the same by filing a short reply dated 07 June, 2018. It is the case of the petitioner that a notice of personal hearing dated 09 November, 2021, as alleged to have been issued by the Department, was never received by the petitioner and in these circumstances, the impugned order-in-original

dated 08 February, 2022 came to be passed confirming the liability which is in the following terms:-

“ **ORDER**

12.1 I confirm the demand of Rs. 1,45,60,321/- (Rupees One Crore Forty Five Lakhs Sixty Thousands Three Hundred Twenty One Only) along with applicable interest from the exporter M/s. RITPL Industries India Pvt. Ltd. (IEC 0509080464), 63, Cancon Enclave, Sector 4, Opp. Chintapuri Mandir, Railway Road, Gurgaon – 122001, demanded vide Demand-Cum-Show Cause Notice vide F. No. S/12-Gen-MISC-372/2018-19/DBK/BRC dated 02-05-2018.

12.2 This order is passed without prejudice to any other action and/or further action on the aforesaid company and/or other individuals/persons under the provisions of the Customs Act 1962 or any other law for the time being in force.”

3. We may observe from the order that the order-in-original does not record any reason including to consider the documents as submitted by the petitioner by its letter dated 07 June, 2018. It also appears that for some reason, which we need not go into, no personal hearing was granted to the petitioner.

4. Considering the facts and circumstances of the case and taking an overall view of the matter, we are of the opinion that respondent no.2 needs to reconsider the proceedings and pass a fresh order in accordance with law after granting an opportunity of a personal hearing to the petitioner. We accordingly dispose of this petition by the following order:-

ORDER

i. The impugned order-in-original dated 08 February, 2022 passed by

respondent no.2 is quashed and set aside.

ii. The petitioner is directed to submit a detailed reply to the show cause-cum-demand notice dated 02 May, 2018 within a period of 10 days from today. There shall not be any further extension.

iii. The petitioner shall appear before respondent no.2 on 23 January, 2024 at 02.30 p.m.

iv. Respondent no.2 shall grant an opportunity of personal hearing to the petitioner and proceed to pass an order denovo, in accordance with law within a period of four weeks from the date of hearing.

v. All contentions of the parties are expressly kept open.

vi. Disposed of in the above terms. No costs.

[FIRDOSH P. POONIWALLA, J.]

[G. S. KULKARNI, J.]