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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15549 OF 2023

S.V.Exports

... Petitioner

Versus

Additional Commissioner of Customs, SIIB (Exports)
& Anr.

... Respondents

Mr.Shakeel Akhter, Mr.Neeraj Pandey and Mr.Anmol Deshpande for the
Petitioner

Mr.M.P.Sharma a/w Mr.Saket R. Ketkar for the Respondents

CORAM: G. S. KULKARNI &
 FIRDOSH P. POONIWALLA, JJ.
DATED: 5 February, 2024

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P.C.

1. This Petition, under Article 226 of the Constitution of India, is filed
praying for the following reliefs:

*a) A writ of or in the nature of Mandamus do issue
setting aside and/or quashing the said impugned Show Cause
Notice dated March 3, 2020 forthwith;*

*b) A writ of or in the nature of Mandamus do issue
directing the respondent to release the Bank Guarantee
furnished by the petitioner at the time of release of the said
goods forthwith;*

*c) A writ of or in the nature of prohibition do issue
forbearing the respondent No. 2 from taking any steps or
further steps and/or from giving any effect or further effect to
the said impugned Show Cause Notice dated March 3, 2020 in
any manner whatsoever;*

*d) A writ of or in the nature of Certiorari do issue
commanding the respondents to certify and transmit to this
Hon'ble Court the records of the purported proceedings
particularly those relating to the said impugned Show Cause
Notice dated March 3, 2020 so that the same may be quashed
and/or conscionable justice may be done to them;*

e) *Injunction restraining the respondents, his men and agents from taking any steps or further steps and/or from giving any effect or further effect to the said impugned Show Cause Notice dated March 3, 2020 in any manner whatsoever till the disposal of the instant writ petition;*

f) *Injunction restraining the respondents, their men and agents from taking any coercive measures against the petitioner No. 1 and/or its partners in any manner whatsoever;*

g) *Ad-interim orders in terms of prayers (e) and (f) above;*

h) *Such other and/or further order/orders be passed direction/directions be given as to this Hon'ble Court may deem fit and proper."*

2. The learned counsel for the Petitioner, at the outset, submits that the Petitioner had not filed reply to the impugned show cause notice.

3. The contention of the Petitioner is primarily two fold, firstly, that the impugned show cause notice is issued without jurisdiction, and secondly, considering the contents of the show cause notice, and more particularly paragraph 7 thereof, the authority issuing the show cause notice has acted with a pre-determined mind. It is on these basic contentions the Petitioner contends that the show cause notice is required to be quashed and set aside and the prayers made in the Petition are to be granted.

4. The Petition is opposed on behalf of the Respondents. It is Respondents submission that this is certainly not a case where the show cause notice could be set aside, inasmuch as, the Petitioner was granted provisional release of the goods after the panchnama. There was a request pending the investigation and obtaining the valuation reports. The Petitioner's request, for provisional release of the goods covered under Shipping Bills No.8302197 & 8302287 both dated 16.06.2016, was accepted by the competent authority on condition of a bond of Full FOB Value and Bank Guarantee of an amount equal to 20% of FOB value. Accordingly, the Petitioner executed the bond dated 30th June 2016 of total FOB value of Rs.4,70,23,782.48/- and submitted Bank

Guarantee for an amount of Rs.94,05,000/-. Subsequently, the goods were released provisionally on 2nd July 2016.

5. After hearing the learned counsel for the parties, and after perusal of the records, we are of the opinion that considering the facts and circumstances of the case, it would be appropriate that the Petitioner responds to the show cause notice. The learned counsel for the Petitioner has fairly stated that the reply to the show cause notice would be submitted to the Designated Officer within a period of four weeks from today. If that be so, the Designated Officer shall follow the procedure, and after opportunity of hearing is granted to the Petitioner, pass appropriate orders on the show cause notice in accordance with law. As the show cause notice itself is of the year 2020, it would be in the interests of justice that it is adjudicated as expeditiously as possible, and, in any event, within a period of two months from the reply to the show cause notice being filed by the Petitioner.

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

7. Petition is accordingly disposed of. No costs.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)