



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1656 OF 2024

INS Consultancy, through its Prop. Shri Indu Shekhar ... Petitioner

vs.

Union of India, through the Secretary, Ministry of ... Respondents
Law and Justice, Dept. of Legal Affairs & Ors.

Mr. Brijesh Pathak for the petitioner.

Mr. Advait M. Sethna a/w. Mr. Sandeep Raman, Mr. Saket R. Ketkar for
respondent nos. 3 and 4.

Ms. Shirin Irani i/b. Mr. Veer Kaneria for respondent no. 5.

CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.
DATED: 17 April, 2024

P.C.

1. We wonder whether the report being relied upon by Smt. Shweta Suman, Deputy Commissioner of Customs, Special Investigation and Intelligence Branch (Import) in her affidavit dated 16 April, 2024, which is tendered across the bar by Mr. Sethna, learned counsel for respondent nos. 3 and 4 can be considered. This for the reason that an affidavit dated 15 April, 2024 is placed on record by Mr. Sukant Chaudhary, Deputy Director, Food Safety and Standards Authority of India (FSSAI) *inter alia* stating that the roasted areca nuts (split) imported by the petitioner and subject matter of the present proceedings confirm to the requirements and parameters of the Food Safety and Standard Act, 2006 (for short “FSS Act”) and Rules framed

thereunder and as also stated in the report dated 6 April, 2024 by Geo-Chem Laboratories Pvt. Ltd. conforms to provisions of FSS Act, Rules and Regulations, 2011 and that Food Safety and Standards Authority has no objection for the clearance of the goods in question.

2. After such affidavit dated 15 April, 2024 of the FSSAI was placed on record, today the affidavit of Smt. Shweta Suman is being filed referring to a report dated 20 February, 2024 of one NABL accredited Food testing Laboratory, which is a report prepared almost two months back by a laboratory notified by the Food Safety and Standards Authority, which has taken a contrary view from what has been taken by the FSSAI *inter alia* stating that the Areca nuts are not fully roasted and more particularly, in the final remarks as set out at page 21 of the reply affidavit. We may also observe that it is quite surprising that for last two months there was not a whisper of such report and the officer had not made any attempt to either place the said report on record or furnish the same to the petitioner and for the first time it is set out in the affidavit tendered to us today such report is being relied.

3. In these circumstances, it *prima facie* appears to us that once the highest authority, i.e. Food Safety and Standards Authority has no objection, whether such no objection issued by such authority can be discarded.

4. Mr. Pathak, learned counsel for the petitioner intends to take instructions on the affidavit of Smt. Shweta Suman, Deputy Commissioner of Customs, Special Investigation and Intelligence Branch (Import).

5. We shall hear the parties on this petition on the adjourned date of hearing. List the petition on **23 April, 2024 (H.O.B.)**.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI , J.)