

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PRACHI
PRANESH
NANDIWADEKAR

Digitally signed
by PRACHI
PRANESH
NANDIWADEKAR
Date: 2024.07.10
11:26:31 +0530

WRIT PETITION NO.3907 OF 2024

Akash Bhagwan Goswami

....Petitioner

V/s.

Union of India & Ors.

....Respondents

Mr. Prakash Shah a/w Mr. Jas Sanghavi i/by PDS Legal for petitioner.
Mr. Jitendra Mishra a/w Ms. Sangeeta Yadav for respondents.

**CORAM : K.R. SHRIRAM &
JITENDRA JAIN, JJ.
DATED : 8th JULY 2024**

P.C. :

1 In this petition, the relief sought is a Writ of Mandamus directing respondents to forthwith release the goods imported by petitioner covered under seven bills of entry.

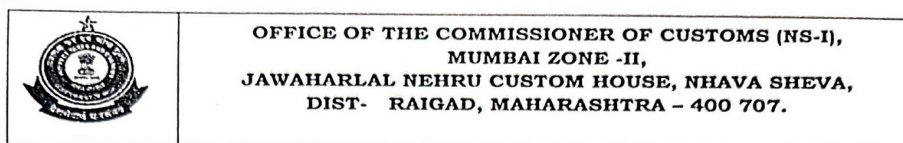
2 By an order dated 6th May 2024, this Court was pleased to observe that there was no real dispute between the Customs Department and petitioner concerning five bills of entry. As regards two bills of entry being Nos.8650100 and 8699359 dated 6th November 2023 and 9th November 2023, respectively, the Court stood over the matter to consider the same.

3 A short point with regards to goods covered by two bills of entry is whether the goods contained catechu. There is a certificate annexed to petition issued by a Chemical examiner of Jawarharlal Nehru Custom House (JNCH) Laboratory on 29th November 2003 and a certificate dated 5th February 2024 issued by the Food Safety and Standards Authority of India (FSSAI). The certificate issued by JNCH Laboratory mentioned the samples under reference gave positive test for catechu which petitioner is not accepting. Mr. Shah states that the certificate issued by FSSAI is silent about catechu because the query raised by Customs Department in their communication dated 29th December 2023 did not contain a query regarding catechu which, for ease of reference, is scanned and reproduced hereinbelow :

118

EXHIBIT - E1

118



S/26-Misc-767/2023-24/Gr I & IA/JNCH

Date: .12.2023

To,

The Director,
Food Safety and Standards Authority of India,
9th Floor, Hallmark Business Park,
Kala Nagar, Bandra East,
Mumbai-400051

Madam/ Sir,

Sub: Verification/Testing of the Samples for Menthol/Scented Sweet Cutting Supari (Nut Based Mouth Freshner) the given parameters- Reg.

Please refer to the filed import Bills of entry Vide Numbers 8699359 Dt. 09.11.2023, 8650100 Dt. 06.11.2023 and 855629 Dt. 31.10.2023.

In this regard this is to bring it to your kind notice that the importer M/s Bag Industries (IEC-BREPG2697B), has given vague description suggesting some processes conducted on the goods. The said processes cannot be ascertained with the naked eye. Also, it is not possible for the untrained person to ascertain / verify the nature of mix created in the impugned goods.

You are hereby requested to issue instructions to conduct the requisite tests to satisfy the following queries:

- (i) The identity of goods with respect to genus and species and parts thereof.
- (ii) The nature of food product- plant/ fruit whole/ fruit split (if split in how many pieces)/ seed/ any other.
- (iii) The changes made during process are temporary in nature or permanent?
- (iv) Which of the following process of cutting/ pruning/ cleaning/ heat treatment or boiling conducted.
- (v) Chemically treated or not. If yes chemical used.
- (vi) If treated with or Mixing of sweetener.
- (vii) If treated with or mixing of fragrance.
- (viii) If the goods are having fungus/ bacterial growth or any other infectious growth.
- (ix) If the goods are edible food preparation and can be directly consumed in the present form.

119

- (xiv) Any other comment on the goods for determining classification, grade, value etc.

119

This is issued with the approval of Competent Authority.



(Shweta Suman)
Deputy Commissioner of Customs,
Gr I & IA, NS-I, JNCH, Nhava-Sheva

4 Be that as it may, without going into the contents of these two certificates, in our view, it would assist the Court to come to a decision if FSSAI is directed to draw samples and after conducting the requisite test give a report. FSSAI shall in addition to query that was raised in the

communication dated 29th December 2023 issued by the Assistant Commissioner of Customs to Director of FSSAI also ascertain whether the goods contained catechu.

5 FSSAI is directed to draw samples within three days of receiving a copy of this order and issue a certificate within three working days thereafter. The samples shall be drawn in the presence of representatives of petitioner as well as Customs Department. Samples drawn shall be sealed and details of seals shall also be mentioned in the report and also certify that seal was intact when samples being taken out for testing.

6 Stand over to 22nd July 2024.

(JITENDRA JAIN, J.)

(K.R. SHRIRAM, J.)