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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9947 OF 2024

Prime Home Collection (OPC)
Private Limited

....Petitioner

V/s.

Union of India
Through Its Secretary
Ministry of Finance, Department
of Revenue and Ors.

...Respondents

Dr. Sujay Kantawala a/w Mr. Anupam Dighe, Ms. Chandni Tanna, Ms. Renita Alex and Mr. Prathamesh Chavan i/b India Law Alliance for Petitioner.
Mr. M.P. Sharma a/w Mr. Saket R. Ketkar for Respondents.
Mr. N.S. Ramakrishna Rao, Assistant Commissioner of Customs (CEAC) present.

CORAM : K.R. SHRIRAM &
JITENDRA JAIN, JJ.
DATED : 23rd JULY 2024

PC. :

1. Circulation was granted for yesterday because urgency was pleaded in the praecipe as under :

“By way of the present Petition, the Petitioner is challenging the Impugned Letter dated 18.06.2024 issued by Respondent No. 5 which allowed for back to town of the export consignment after three month and by imposing a bank guarantee of Rs.68,65,141/-. Furnishing of a Bank Guarantee for back to town is inconsistent with Public Notice No. 75/2023 dated 31.08.2023, which does not provide for such a provision.

The Petitioner pleads urgency as their goods have been held up in the CFS, for almost three months following the cancellation of their export order due to delay caused by the Respondent's investigation and not allowing clearance of the goods for export. Moreover, due to the prolonged illegal detention of Petitioner's goods under the garb of investigation by the Respondents, the Petitioner is burdened with heavy detention charges. In view of the aforesaid, Petitioner is entitled to a detention waiver certificate.

In view of the above the Petitioner humbly and respectfully submits that the above Petition may kindly be listed”.

2. When the petition was listed yesterday Dr. Kantawala informed the court that an unjustifiable demand of bank guarantee of Rs.68 Lakhs is being asked despite petitioner wanting to take the goods back to town and not export the same.

3. Mr. Sharma wanted to take instructions and has even kept the concerned officer present in the court. Mr. Sharma stated that this was a case of mis-declaration, and as provided under Section 113(i) of The Customs Act, 1962, the goods are liable to confiscation since they were attempted to be improperly exported. Mr. Sharma submitted that therefore petitioner was directed to secure the revenue by giving bank guarantee in the sum of Rs.68,65,141/- and a bond, in lieu of confiscation.

Mr. Sharma requested for two weeks time to file affidavit in reply. Time granted.

Rejoinder, if any, to be filed and copy served within a week thereafter.

4. Petition be listed on 26th August 2024.

(JITENDRA JAIN, J.)

(K.R. SHRIRAM, J.)