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

WRIT PETITION NO. 10063 OF 2024

Bimal P. Shah

....Petitioner

V/s.

Union of India

Through The Secretary and Ors.

...Respondents

Mr. Brijesh Pathak for Petitioner.

Mr. Jitendra B. Mishra a/w Ms. Sangeeta Yadav and Mr. Umesh Gupta for Respondents.

**CORAM : K.R. SHRIRAM &
JITENDRA JAIN, JJ.**

DATED : 23rd JULY 2024

P.C. :

1. Mr. Pathak states that the subject matter of this petition relates to one bill of entry filed by petitioner for importing process oil packed in 10 containers. Mr. Pathak states that the containers arrived on or about 29th May 2024 and sample was drawn only on or about 6th June 2024. Mr. Pathak's grievance is that subsequently the Customs Department has done nothing. Mr. Mishra states that the sample drawn was sent to the concerned department and a report has been issued on 10th June 2024 in which it is stated that the imported cargo was not process oil as declared. Mr. Mishra states that the Assessment Order as regards that one container shall be passed within one week from today. Mr. Pathak states he will attend a personal hearing even tomorrow. Mr. Mishra states he will inform Mr. Pathak about the time to attend the personal hearing and the officer who shall grant him a personal hearing.

2. As regards remaining 9 containers, Mr. Mishra's grievance is that petitioner has not been co-operating to draw samples. Mr. Pathak states it is an incorrect statement because not once has petitioner been asked to attend. In fact annexed to the petition is a copy of letter dated 19th June 2024 from petitioner to the Principal Commissioner of Customs, Nhava Sheva requesting for personal hearing to discuss the conditions of provisional release because the mounting detention and demurrage charges was causing significant financial strain to harassment.

3. Mr. Mishra states that the department will draw samples from the container tomorrow itself and send it for sampling. Mr. Mishra further undertakes that petitioner will be given atleast 8 hours advance notice about the time fixed for drawing of samples so that petitioner's representative may remain present. Statement accepted. Mr. Pathak states that petitioner's representative is standing everyday in front of officer for assistance and the representative even visited the Joint Commissioner of Customs 3 to 4 times.

4. The samples shall be sent for examination and report shall be prepared and made available to petitioner within five working days from the date the samples are drawn. Mr. Mishra undertakes that respondent would pass the final Assessment Order within two weeks of receiving the report. Undertaking accepted.

5. In view of the statement made by Mr. Mishra as recorded above, Mr. Pathak states that petition can be disposed with the liberty to approach the court should the need arise.

6. Petition disposed.

(JITENDRA JAIN, J.)

(K.R. SHRIRAM, J.)