

Amol

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO. 544 OF 2024
WITH
CONTEMPT PETITION NO. 545 OF 2024

Ajay Industrial Corporation Ltd ...Petitioner
Versus
Trupti D Chavan Deputy Commissioner
of Customs CRC-I JNCH ...Respondent

Ms Raminder Kaur, *for the Petitioner in both CPs.*

Mr Karan Adik, *with Mamta Omle, For the Respondent in both CPs.*

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CORAM M.S. Sonak &
Jitendra Jain, JJ.
DATED: 07 October 2024

PC:-

1. Heard learned Counsel for the parties.
2. Both these Petitions alleged contempt of the directions we issued in our order dated 19 March 2024, disposing of Writ Petition No. 773 of 2024.
3. Ms Raminder Kaur, the learned Counsel for the Petitioner, submits that this Court had opined that Section 27A of the Customs Act, 1962 would provide for payment of interest on delayed payment of refund amounts, which was a

statutory entitlement of the Petitioner that was required to be considered by the adjudicating officer dealing with the refund applications. However, she points out that these observations were ignored entirely when making an order dated 15 May 2024 pursuant to the matter being remanded to the adjudicating officer by the same order dated 19 March 2024. She submits that ignoring the observations of this Court and deciding a matter in breach of the statutory provisions would amount to deliberately disregarding this Court's orders. Accordingly, she urges action under the Contempt of Court's Act, 1971, against the Respondent, making the order dated 15 May 2024.

4. Mr Adik, the learned Counsel for the Respondent, submits that no question of any contempt is involved in these matters. He submits that the Respondents have decided the matter in accordance with law, and the Petitioner has already challenged the order dated 15 May 2024 by instituting a Writ Petition No. 13314 of 2024. Merits or otherwise of the order dated 15 May 2024 can always be examined in appropriate proceedings should the Petitioner take them out. However, this is not a case of any disobedience, much less wilful disobedience of the order made by this Court.

5. We have considered the rival contentions and perused the merit on record. In our judgment, this is not a case that requires us to exercise our contempt jurisdiction.

6. In our order dated 19 March 2024, after making certain observations, we directed the adjudicating officer to decide the interest claim of the Petitioner after due compliance with the principles of natural justice. The adjudicating officer made

an order dated 15 May 2024 after complying with the principles of natural justice. The issue as to whether this order is correct or not can always be examined in appropriate proceedings. However, even assuming that the incorrect order is made, that would not invite any action under the Contempt of Courts Act. Further, we cannot usually presume that a wrong order has been made deliberately or to frustrate the orders made by this Court.

7. In this Petition, the Petitioner seeks certain substantive reliefs qua the order dated 15 May 2024. Ordinarily, this is not the scope of a Contempt Petition. Besides, learned Counsel for the Petitioner submitted that Writ Petition No. 13314 of 2024 does not challenge the order dated 15 May 2024. Still, it challenges the order dated 1 April 2024, which may be the subject matter of Contempt Petition No. 545 of 2024. The order dated 15 May 2024 itself provides that the same is appealable under Section 128(1) of the Customs Act, 1962. Therefore, if the Petitioner has any grievances against the orders made by the adjudicating authority under our order dated 19 March 2024, it is always open to the Petitioner to adopt appropriate proceedings before the appropriate forum.

8. Therefore, the non-entertainment of this Contempt Petition would be without prejudice to such entitlement of the Petitioners.

9. This Petition is therefore not entertained. However, such non-entertainment is without prejudice to the Petitioner taking out appropriate proceedings before the appropriate Court to challenge the orders made by the adjudicating authority.

10. Both these Contempt Petitions are disposed of in the above terms. There shall be no order for costs.

(Jitendra Jain, J)

(M.S. Sonak, J)