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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 659 OF 2024
WITH
INTERIM APPLICATION (L) NO.12399 OF 2024
IN
WRIT PETITION NO.659 OF 2024.

Biyani Silk Mills and anr. : Petitioners

Versus

The Commissioner of Customs
(Import-II) and ors. : Respondents

Mr Anil Balani, a/w Mr. Jas Sanghavi, Ms Priyasha Pawar and Mr.
Yash Parakash i/by PDS Legal for Petitioner – Applicant.
Mr Ram Ochani, a/w Ms Niyati Mankad (Through V.C.) and Mr.
Akash Singh for Respondent No.2.

CORAM M.S. Sonak &
Jitendra Jain, JJ.
DATED: 17 December 2024

ORAL JUDGMENT :- (*Per M. S. Sonak, J.*)

1. Heard learned counsel for the parties.
2. Rule. The rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.
3. The Petitioners seek the following substantive reliefs in this Petition:-

(a) that this Hon'ble Court be pleased to issue a Writ of Certiorari calling for the records of the Petitioners' case and after examining the legality and validity thereof be pleased to

quash and set aside the impugned show cause notice dated 07.05.1997 (Exhibit-A hereto);

(b) that this Hon'ble Court be pleased to issue a Writ of Mandamus or any other appropriate writ, order or directions directing the Respondents by themselves, their subordinates, successors in office, servants and agents to forthwith return the amount of Rs. 60 Lakhs collected from the Petitioners during investigation with interest @12% from the date of deposit upto the date of refund;

4. Regarding prayer clause (a), we note that the impugned show cause notice dated 07 May 1997 was issued to the Petitioners and other co-noticees, including M/s. Welspun Polyester (Ind.) Ltd. The said co-noticee instituted Writ Petition No1148 of 2023 to challenge this very show cause notice on the grounds of delayed adjudication. The delay is almost 25 years from the date of issuance of show cause notice and a little more than 30 years from the date of import.

5. Writ Petition No.1148 of 2023 (**Welspun India Limited (Formerly known as Welspun Polyester (India) Limited Vs. Union of India & Anr.)**) was disposed of by a Coordinate Bench of this Court, of which one of us (Jitendra Jain, J.) was a party, by judgment and order dated 22 August 2023¹. This Court considered the same reasons the Respondents offered to explain the delay but found such reasons unacceptable.

6. Therefore, by adopting the reasoning in *Welspun India Limited* (supra) and following the precedent in the said decision, we quash and set aside the impugned show cause notice dated 07 May 1997.

7. Insofar as prayer clause (b) is concerned, we agree with Mr. Ochani, the learned counsel for Respondent No.2, that we should not presently deal with the relief in prayer clause (b). Instead, he

¹ 2023(8) TMI 1166 – Bombay High Court

suggested that the Petitioners could be given the liberty to take out appropriate proceedings regarding this prayer. Accordingly, we grant the Petitioners liberty to take out appropriate proceedings concerning prayer clause (b).

8. If such proceedings are indeed taken, we are sure that the Respondents will dispose of them in accordance with the law and as expeditiously as possible.

9. All parties' contentions regarding the relief in prayer clause (b) are kept open.

10. The rule is disposed of in the above terms without any costs for orders.

11. The pending Interim Application does not survive, and the same is disposed of

12. All concerned to act upon an authenticated copy of this order.

(Jitendra Jain, J)

(M.S. Sonak, J)