Chaitanya



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

## WRIT PETITION NO. 13315 OF 2025

M/s. M. Y Impex Through its Proprietor … Petitioner

*Versus*

Union of India Through the Secretary, Ministry of Law and Justice And Ors. … Respondents

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**Dr. Sujay Kantawala** a/w Ms. Aishwarya Kantawala, Ms. Ayushi Jha i/b Jeffry Caleb, for Petitioner.

**Mr. Jitendra B. Mishra** a/w Ms. Sangeeta Yadav, Mr. Rupesh Dubey, for Respondent Nos. 2 to 4.

**Mr. Satyaprakash Sharma** a/w Mr. Abhishek R. Mishra, for Respondent No.6.

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**CORAM : M.S. Sonak &**
**Advait M. Sethna, JJ.**

**DATED : 04 November 2025**

**PC:-**

**1.** Heard learned counsel for the parties.

**2.** Mr. Kantawala, the learned counsel for the Petitioner, pointed out that the imported dates have been detained from 06 August 2025 and were formally ordered to be seized on 06 October 2025. He raises certain issues about the perishability of these goods and how, no proper steps are being taken to ensure that they do not perish early.

**3.** Without prejudice, and on instructions, Mr Kantawala submitted that the Petitioner would have no objection if the Customs Authorities sold these goods and retained the amount until the completion of the adjudication proceedings. He submitted that this will at least mitigate the prejudice arising from the perishing of the seized goods, i.e., dry dates.

**4.** Mr Mishra, based on instructions, submitted that there is no question of selling the seized goods, as if it is established that the goods originated in Pakistan, they would be prohibited and unable to be sold in the Indian market. He initially stated that even before the Hon'ble Supreme Court, in the case of Union of India and Ors. v. In Make India Impex (Petition for Special Leave to Appeal (C) No. 31205 of 2025), submissions were made on behalf of the Union of India that the only options were either to destroy the goods or to re-export them.

**5.** Mr Mishra clarifies that he submits there are only two options: destroy the goods or re-export them. He also submitted that there would be no problem for immediate re-export of the goods, should the Petitioner so desire.

**6.** Upon making this submission, we called upon Mr. Kantawala to ascertain from the Petitioner whether the Petitioner is willing to re-export the goods. Mr. Kantawala, based on instructions from the Petitioner stated that the Petitioner would immediately re-export the goods because otherwise, the goods are bound to perish.

**7.** At this stage, Mr Mishra, based on instructions submitted, stated that even the re-export would not be permitted until the adjudication proceedings are completed. He further stated that no timeline would be provided for either commencing or completing the adjudication proceedings. He also claimed that the Petitioner is not cooperating in the matter. Mr. Kantawala denies this allegation of non-cooperation.

**8.** Thus, it is apparent that the Petitioner's suggestion about the sale of the goods by the Customs Authorities or re-export of the goods is not acceptable to the Customs Authorities. No timeline is also being provided for the commencement of the adjudication proceedings or their conclusion.

**9.** Mr Mishra also pointed out that it is open to the Petitioner to represent to the Government of India, in light of Notification No. 6/2025-2026 dated 02 May 2025. Mr Mishra is unable to state whether such a representation, if made, would be decided within a reasonable period. He now states that he is not appearing for the Union of India, i.e. the Director General of Foreign Trade. He raises objections to the maintainability of this petition and the locus standi of the petitioner.

**10.** In short, the petitioner's request that the customs authorities sell the perishable dates and retain the amounts received until the adjudication concludes is unacceptable to the customs authorities, even though the petitioner pointed out that a discretion was vested to permit such a course of action. The alternate proposal for re-export [by retaining samples for investigation] is being resisted by submitting that re-exports may be possible only after the conclusion of adjudication, and that no timeline can be indicated for the commencement and, consequently, the conclusion of adjudication.

**11.** Accordingly, we direct the Respondent Nos. 5 and 6 to file affidavits inter alia, regarding the Petitioner’s proposal for re-export of the seized goods. This proposal for re-export will be without prejudice to the Respondents' right to investigate this export transaction. Such an affidavit is necessary because Mr Mishra referred to the provisions of Section 125 of the Customs Act, to submit that even the re-export can be permitted only after the conclusion of the adjudication proceedings. He also submitted that no timeline could be indicated for the completion of the investigation and, consequently, for the adjudication proceedings.

**12.** Such affidavits should indicate, inter alia, the statutory provisions on the policy of re-export or indicate whether there are any circulars, guidelines, etc., that govern the request for re-export. The affidavits must be filed and served by 14 November 2025. List the matter on 19 November 2025.

**13.** Mr. Sharma is requested to immediately communicate this order to the 5th Respondent so that the affidavit is filed and served by 14 November 2025.

**14.** Mr Mishra raises an objection to the *locus-standi* of the Petitioner and also to the maintainability of this Petition. All such objections are kept open.

**(Advait M. Sethna, J)** **(M.S. Sonak, J)**