IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 16509 OF 2025

Neena Uppal .. Petitioner

Versus

The Union of India & Ors. .. Respondent

***Mr.* Prakash Shah, Senior Advocate, Mr. Jas Sanghavi with Mr. Vikas Poojary and Ms. Linzy Sharan i/b PDS Legal,** *Advocates for the Petitioner.*

Mr. Raju Thakkar and Ms. Megha Bajoria, Advocates for the Respondents.

CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.

DATE: DECEMBER 22, 2025

P. C.

1. Rule. Respondents waive service. With the consent of parties, Rule made returnable forthwith and heard finally.

2. This Petition under Article 226 of the Constitution of India is filed inter alia challenging the legality and validity of the Seizure Memo dated 27.10.2025 issued by Respondent No. 5, and the action on part of the Respondent Nos. 2 to 6 in not permitting the clearance of **"Betel Nut product**

known as Supari (Menthol Scented Sweet Supari) (mouth freshener)" imported by the Petitioner and covered under **Bill of Entry No. 3383103 dated 20.07.2025** for home consumption **("imported goods").**

3. The case of the Petitioner is that she is involved in the business of trading of the imported goods. The Petitioner, on 14.11.2022, had approached the Customs Authority for Advance Ruling, Mumbai **("CAAR")** seeking classification of the imported goods under CTH 21069030 of the Customs Tariff Act in accordance with the provision of Section 28H of the Customs Act, 1962 **("the Act")**. The CAAR rendered its ruling dated 24.02.2023, wherein the classification of the imported goods was confirmed to be falling under the CTH 21069030 of the Customs Tariff Act.

4. The Principal Commissioner of Customs filed Customs Appeal No. 24 of 2024 in this Court challenging the said ruling dated 24th February 2023. Further, the Principal Commissioner of Customs also filed Interim Application (L) No. 9564 of 2025 seeking condonation of delay in filing the Customs Appeal No. 24 of 2024.

5. This Court, vide its order dated 04.12.2024, was pleased to dismiss the said appeal and interim application holding that the delay was beyond the

condonable period provided under Section 28KA of the Act. The Hon'ble Apex Court, vide its order dated 04.08.2025, has dismissed the SLP filed by the Commissioner of Customs challenging the said order dated 04.12.2024 passed by this Court.

6. Further, this Court, vide its **order and judgment dated 04.03.2024 in Petitioner's own case and reported in 2024 (17) Centax 157 (Bom),** after considering the aforesaid ruling of CAAR and reports of the Food Safety and Standards Authority of India **("FSSAI")** and Deputy Chief Chemist of Customs Laboratory **("DYCC Lab")** therein, was pleased to, inter alia, allow release of the imported goods vide assessed Bill of Entry No. 7215645 dated 05.08.2023 on payment of duty applicable under the Chapter heading 21069030 of the Customs Tariff.

7. The Union of India has filed SLP (Civil) Diary No. 44990 of 2024 in the Hon'ble Apex Court challenging the above order and judgment dated 04.03.2024 of this Court. The Hon'ble Apex Court, vide its order dated 28.03.2025, was pleased to condone the delay and grant leave. The Hon'ble Apex Court has not stayed the order and judgment dated 04.03.2024 passed by this Hon'ble Court.

8. On such backdrop, the Petitioner imported another consignment of the imported goods and filed Bill of Entry No. 3383103 dated 20.07.2025, *inter alia,* classifying imported goods under CTH 21069030 of the Customs Tariff Act and seeking clearance thereof for home consumption on payment of duty applicable under the Chapter heading 21069030 of the Customs Tariff.

9. On 26.07.2025, without raising a query, the Respondent withheld the imported goods. The samples of the imported goods were drawn by the Respondents and sent to FSSAI and Central Revenues Control Laboratory **("CRCL")** for verification / testing.

10. FSSAI and CRCL, vide their respective test reports dated 18.8.2025 and 12.09.2025, inter alia, have confirmed that the imported goods are as per Regulations of the Food Safety and Standards and (Food Products Standards Food Additives) Regulation, 2011 **("FSSAI Regulations"),** have characteristics of menthol scented supari and may be considered as fit for human consumption. FSSAI has also granted no objection for clearance of the imported goods.

11. Despite the said binding ruling of CAAR, judgment of this Court and reports of FSSAI and CRCL in favour of the Petitioner, Respondent No. 5

seized the said imported goods vide his impugned seizure memo dated 27.10.2025 alleging mis-classification of the imported goods possibly to avail country of origin benefit.

12. The Petitioner, on 27.11.2025, filed the above Petition challenging the said seizure memo dated 27.10.2025 and action on part of the Respondent Nos. 2 to 6 in not permitting the clearance of the imported goods.

13. Pending the hearing of the above Petition, the Joint Commissioner of Customs has issued a show cause notice dated 10.12.2025 to the Petitioner proposing to (i) re-classify the imported goods under CTH 08028090 of the Customs Tariff Act and apply customs duty at the applicable rate under CTH 08028090 of the Customs Tariff Act, (ii) demand duty of Rs. 1,77,24,941/- with appropriate interest, (iii) confiscate the imported goods under Section 111(m) of the Act and (iv) impose penalty under 112(a) and 114AA of the Act.

14. The above-mentioned show cause notice dated 10.12.2025, is placed before this court by the Petitioner by filing an Additional Affidavit dated 17.12.2025.

15. In response to the aforesaid fact, the learned Counsel for the Respondents submits that if the Petitioner wants provisional release case of the imported goods, then the Petitioner should provide a bond and a bank guarantee for the differential duty. In this regard he relied upon the order and judgment of the Hon'ble Madras High Court dated 07.07.2022 in the case of ***M/s. Genuine Spices vs. The Commissioner of Customs & Ors.*** passed in W.P.(MD) Nos. 9699 of 2022 and 13644 of 2022.

16. On the above conspectus, we have heard the learned counsel for the parties. With their assistance, we have also perused the record.

17. It is not in dispute that prior to the import of the goods in question, the Petitioner had made an application to CAAR regarding classification of the imported goods. Such ruling was rendered on 22.02.2023 holding that the goods be classified under CTH 21069030 of the Customs Tariff Act. The said decision of CAAR was binding upon the Respondents in terms of Section 28J of the Act.

18. This Court, vide its order dated 04.12.2024, was pleased to dismiss the appeal and interim application filed by Principal Commissioner of Customs challenging the said ruling of CAAR. The Hon'ble Apex Court, vide its order

dated 04.08.2025, has also dismissed the SLP filed by the Commissioner of Customs challenging the order dated 04.12.2024 passed by this Court.

19. It is also evident from the records that the Respondents had taken steps to examine the imported goods from the perspective of its human consumption. As noted above, the FSSAI had rendered its opinion, on the basis of the samples which were drawn by the Department, that the imported goods conform to the standard laid down under Regulation 2.3.55 of FSSAI Regulations. It is thus clear that the FSSAI, following the statutory mandate under the said Regulations, had no objection to the imported goods being cleared for home consumption.

20. The Respondents, however, were not satisfied, and over and above the FSSAI opining that the imported goods conform to the edible standards, as laid down under the said regulations, obtained a further analysis of the imported goods from CRCL. CRCL vide its test report dated 12.09.2025, inter alia, confirmed that the imported goods have the characteristics of menthol scented supari as per the Food Safety & Standards & Regulation 2011 and IS 16962:2018. CRCL has further confirmed that the imported goods may be considered fit for human consumption. Thus, there cannot be any dispute about the imported goods being fit for human consumption.

21. This Court, vide its order and judgment dated 04.03.2024 in Petitioner's own case (supra) has permitted release of the imported goods on payment of duty applicable under the Chapter heading 21069030 of the Customs Tariff. The Hon'ble Apex Court has not stayed the order and judgment dated 04.03.2024 passed by this Hon'ble Court.

22. Thus, when this Court in almost identical circumstances had allowed the Writ Petition filed by the Petitioner, and CAAR by its ruling dated 24.02.2023 having decided the issue of classification in favor of the Petitioner, and the Respondents have duly examined and tested the imported goods, in our opinion, *prima facie*, there was no justification on part of the Respondents in seizing the imported goods and not allowing clearance thereof alleging mis-classification of imported goods to avail country of origin benefit.

23. Further, we are of the *prima facie* view that the goods imported by the Petitioner are Menthol Scented Sweet Supari and appears to be covered by the ruling of CAAR dated 24.02.2023 based on the test reports dated 12.09.2025 of CRCL.

24. In view of these peculiar facts of the case, we are not inclined to accept the submission of the learned Counsel for the Respondents that the goods be allowed to be released against a bond and a bank guarantee for the differential duty amount.

25. In any event, the Respondents have now issued a show cause notice dated 10.12.2025. It would be open for the Respondents to adjudicate the said issue of alleged mis-classification of imported goods and pass appropriate orders in accordance with law, and no prejudice would be caused to the Respondents if the imported goods are permitted for clearance on Petitioner's furnishing a bond towards the duty demanded under the show cause notice.

26. Accordingly, without adjudicating the issue on merits, we pass the following order:-

(a) The Respondents are directed to forthwith permit clearance of Betel Nut product known as Supari (Menthol Scented Sweet Supari) (mouth freshener) covered under Bill of Entry No. 3383103 dated 20.07.2025 for home consumption upon the Petitioner paying the duty /IGST, if any, payable under CTH 21069030, and furnishing a bond towards the duty demanded under the show cause notice, in the format as required by the Customs Department.

(b) The Customs Department shall forward a copy of the format of the bond required from the Petitioner within five days of uploading of the present order on the High Court website.

(c) Once the aforesaid bond is furnished by the Petitioner to the Customs Department, the Customs Department shall permit the Petitioner to clear Betel Nut product known as Supari (Menthol Scented Sweet Supari) (mouth freshener) covered under Bill of Entry No. 3383103 dated 20.07.2025 within a period of seven days from the date of furnishing the said bond by the Petitioner and on payment of duty / IGST, if any [referred to in clause (a) above].

(d) The Customs Authorities are free to adjudicate the Show Cause Notice dated 10.12.2025 issued to the Petitioner on its own merits and in accordance with law after following the principles of natural justice.

(e) All contentions of the parties on merits are expressly kept open.

27. Rule is made absolute in the aforesaid terms, and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

28. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR , J.] **[B. P. COLABAWALLA, J.]**