IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2843 OF 2025

M/s. H. G. Mehta & Co. Pvt. Ltd.
through its Director
Mr. Pankaj Mukundray Sheth
Age : 48 Yrs., Office No. 15,
3rd Floor, Friends Union Premises
Co-operative Society Ltd., 227,
P.D'Mello Road, Near GPO,
Mumbai – 400 001. ...Petitioner

Versus

1. Union of India
through the Director of Enforcement
Directorate of Enforcement
(Prevention of Money Laundering Act)
Pravartan Bhawan
Dr. A.P.J. Adul kalam Road
New Delhi – 110 001.

2. The Deputy Director
Directorate of Enforcement
(Prevention of Money Laundering Act)
Mumbai Zonal Office – II
Unit No.301, 302 & 303, Ceejay House
Dr. Annie Besant Raod, Worali
Mumbai – 400 018.

3. The Hon'ble Adjudicating Authority (PMLA)
Room No.26, 4th Floor, Jeevandeep Building,
Parliament Street, New Delhi – 110001.

4. The Chief Commissioner of Customs
Mumbai Zone – II, Jawaharlal Nehru
Custom House (JNCH), Nhava Sheva,
Tal : Uran, District Raigad,
Maharashtra – 400707.

5. State of Maharashtra
Through the Public Prosecutor
High Court, Mumbai. ...Respondents

Mr. L.S. Shetty a/w Mr. Niranjan Shimpi, Mr. Jhaman Singh, Ms. Juhi Masani i/by Shetty, Malhotra & Associates, Advocate for the Petitioner.

Mrs. Manisha Jagtap, Advocate for Respondent Nos.1 to 3.

Mr. Jitendra Mishra a/w Ms. Sangeeta Yadav, Mr. Umesh Gupta, Mr. Rupesh Dubey, Advocate for Respondent No.4.

Mr. Y.Y. Dabake, APP for Respondent No.5/State.

CORAM : RAVINDRA V. GHUGE
&
GAUTAM A. ANKHAD, JJ.

DATE : 22nd AUGUST, 2025

ORAL JUDGMENT : (PER : RAVINDRA V. GHUGE, J.)

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The Petitioner has put forth Prayer Clauses (a) to (d), below Paragraph No.47, which read as under :-

> *“(a) Direct the Respondent Nos. 1 and 2 to issue the necessary requisition to the Respondent No.4, seeking the complete details of the Customs Duty deposited by this Petitioner amounting to ₹145.35 Crores (approx.) to the Government Treasury in respect of the Import Consignments handled by the Petitioner for its 5 customers / the importers (i) Duplex*

Industries Pvt. Ltd., (ii) R. K. Enterprises, (iii) P & D Conductors (iv) M. J. Industries and (v) APS Enterprises, during the period from January 2008 to December 2012, in view of peculiar facts and circumstances of the case and in the interest of justice, for obviating with the extreme harassment meted out to this Petitioner, illegally seeking confirmation of the provisional attachment of licitly owned properties of Mr. Pankaj Sheth, Mrs. Asha P. Sheth and Mr. Dharmil P. Sheth, sans tainted with any proceeds of crime whatsoever, thereby attracting the provisions of PMLA;

(b) Direct the Respondent No.4 to provide to the Petitioner the complete details of all the Bills of Entries alongwith the relevant related data for the period from January, 2008 to December, 2012 filed on behalf of the 5 importers (i) Duplex Industries Pvt. Ltd., (ii) R.K. Enterprises, (iii) P & D Conductors (iv) M.J. Industries and (v) APS Enterprises, in view of peculiar facts and circumstances of the case and in the interest of justice, thereby facilitating the Petitioner to produce the same before the Respondent No.2 and/or 3, as the evidence towards the use of the said funds amounting to ₹145.35 Crores (approx.) paid to the Customs in respect of the imports made by the predicate offenders;

(c) Pending the hearing and final disposal of the present Petition, this Hon'ble Court be pleased to stay the effect, operation, execution and/or implementation of the impugned PAO dated 27.03.2025 illegally issued by the Respondent No.2 with manifest improper exercise of powers and abuse of powers vested in him under the provisions of PMLA, in view of peculiar facts and circumstances of the case and in the interest of justice;

(d) Pending the hearing and final disposal of the present Petition, this Hon'ble Court be pleased to stay further proceedings before the Respondent No.3, arising out of the impugned PAO dated 27.03.2025, in

view of peculiar facts and circumstances of the case and in the interest of justice;"

3. Having considered the submissions of the learned Advocates for the respective sides, having perused the Petition paper book and the affidavit in reply dated 21st August, 2025, filed by the Assistant Commissioner of Customs, Centralized Legal Cell, NS-V, Mumbai Customs Zone-II, we find that this case throws up peculiar facts.

4. The Petitioner is a Private Limited Company, registered under the provisions of the Companies Act, 1956. This Company was working as Customs/Broker (earlier Custom House Agent). It has filed bills of entries of several clients, mostly Industries and Companies. With reference to the cause taken up in this Writ Petition, the Petitioner submits that on behalf of his clients, it had deposited Rs.1,45,34,64,235.80/- towards the Customs Duty. Now it has been charged with Money Laundering, under the Prevention of Money Laundering Act, 2002 (for short **'PMLA'**), alleging that it has received "proceeds of crime".

5. We do not have to advert to the entire submissions of

the learned Advocates for the respective sides, keeping in view the order that we intend to pass. Suffice it to say that, the Petitioner needs certain documents, which it (Company) had filed with the concerned Authorities towards the Customs Duty for the years 2008 to 2012. All the documents have passed through the hands of the Company and it is on the basis of the calculations made by the Petitioner/Company that the Customs Duty was deposited with the Authorities. Considering the passage of time, these documents are not available with the Petitioner. In absence of these documents it is rendered defenseless. It cannot retrieve thousands of figures running into crores of rupees, with precision, in order to prepare it’s reply in defence against the charge leveled upon it. It is humanly impossible for the Company to carry out such an exercise in the absence of the documents, since the documents with the Company have been destroyed after the specific preservation period.

6. The learned Advocate appearing on behalf of Respondent No.4, The Chief Commissioner of Customs, Mumbai Zone-II, submits that all the documents which the Petitioner wants under a direction of this Court, are available with the Authorities. The Authorities are not parting with these documents, since they

pertain to Companies/Industries, and without their consent, these documents cannot be shared with the Petitioner, notwithstanding the fact that it was the Petitioner/Company, which was representing these Companies and the Petitioner had handled these documents. Technically, Respondent No.4 would require the no objection of all such Companies with reference to whom the Petitioner needs the concerned documents.

7. The learned Advocate for the Petitioner submits that all these Companies were it's clients for the relevant period 2008 to 2012. It had processed through the papers and had submitted their bill of entries. Had it not destroyed those documents after a passage of ten years and if it had preserved them, it would not have been required to be at the door step of Respondent No.4 praying for the copies of the documents. It is a matter of fact that after a particular period of preservation time, these documents are normally destroyed.

8. The learned Advocate for the Petitioner further points out that it is now required to face prosecution under the provisions of the PMLA for the reason that the Company has been charged

with Money Laundering. If these documents were in the custody of the Petitioner, it could have ably defended itself by preparing a written statement in defence. On the basis of the documents available, the Petitioner can make out that the allegations leveled upon the Petitioner are baseless and deserve to be quashed.

9. We appreciate the contention of Respondent No.4 that they cannot part with these documents, without the consent of the said 5 companies. However, we cannot be oblivious of the fact that all these documents were handled by the Petitioner and it was through the Petitioner/Company that these documents were processed and the bill of entries were filed. Had the Petitioner maintained these documents beyond the period of preservation, the Petitioner would not have been required to approach Respondent No.4.

10. The learned Advocate representing Respondent No.2/Directorate of Enforcement and the adjudicating Authority under the PMLA, Respondent No.3, submits that the Petitioner needs to tender a specific reply along with documentary evidence to make good it’s case.

11. As such, we find that the Petitioner is in a peculiar situation. Respondent Nos.2 and 3 require the Petitioner to submit a written statement supported with documents, in defence of the Company and on the other hand, Respondent No.4 is not willing to part with the documents notwithstanding that the Petitioner was the representative of those Companies/Industries at the relevant time.

12. It is in these peculiar circumstances that we conclude that the Petitioner need not be made to run from pillar to post seeking no objection of it's earlier clients between 2008 to 2012. We, therefore, direct Respondent No.4 to tender copies of the documents, duly certified, which were filed by the Petitioner while entering the bill of entries on behalf of its clients for the period 2008 to 2012 (the five Companies with whom the dispute has arisen).

13. The learned Advocate for Respondent No.4, submits in the light of the above conclusion of this Court that if the Petitioner mentions the list of his clients, which is actually set out in the Petition, Respondent No.4 would deliver certified copies of all such documents with regard to such clients on whose behalf the bill of entries were filed by the Petitioner during the period 2008 to 2012.

We appreciate the fairness of Respondent No.4 in making such a statement.

14. In view of the above, this **Writ Petition is partly allowed.** The Petitioner shall convey a list of the clients and the period of 2008 to 2012 to Respondent No.4, vide an application sent via email. On receiving such an application, Respondent No.4 would prepare the certified copies of the documents with reference to these Companies for the period January-2008 to December-2012, within a period of 45 days. If the Petitioner is required to pay the charges for supplying of such documents, Respondent No.4 would indicate to the Petitioner the quantum of the charges and the Petitioner would pay the said charges, within five days of such communication. Thereafter, the Petitioner would collect the documents from Respondent No.4. Acknowledgment of receiving such documents would also be given to Respondent No.4. Alternatively, soft copies may be supplied to the Petitioner.

15. Needless to state, after the Petitioner receives all the documents as are necessary, the written reply would be filed before Respondent No.3, within a period of 75 days, from the date of the

receipt of the documents. Needless to state, though there is a provisional attachment of the properties, none of the concerned Authorities would proceed further, until they receive the reply of the Petitioner and an order is passed by Respondent No.3.

16. Rule is made partly absolute in the above terms.

(GAUTAM A. ANKHAD, J.) **(RAVINDRA V. GHUGE, J.)**