

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

WRIT PETITION NO.1084 OF 2024

Ador Welding Limited

...Petitioner

Versus

The Union of India and Ors.

...Respondents

Mr. Ravi Kadam, Senior Advocate a/w Jehangir Jeejebhoy, Ms. Rohini Jaiswal, Mr. Manas Kotak and Ms. Vidhi Basrani for Petitioner.

Mr. Mohammed O. Shaikh i/b. M.V. Kini & Co. for Respondent No.3.

Mr. Y.R. Mishra a/w Sachidanand T. Singh for Respondent No.1 – UOI.

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

DATED : 28 November 2025

Oral Order:- (Per M.S. Sonak, J.)

1. Heard the learned counsel for the parties.
2. Leave to amend by placing on record the communication dated 9 August 2023 rejecting the Petitioner's Appeal against the impugned compounding order dated 15 June 2023 and to challenge the same. Amendment to be carried out forthwith. Reverification is dispensed with.
3. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.

4. In the present case, the Petitioner had challenged the compounding order dated 15 June 2023 (Exh.A to the Petition), by instituting an Appeal before the Appellate Authority. The compounding order of 15 June 2023 had itself provided that in case the Petitioner was aggrieved by the said order, it could prefer an Appeal to the Director General of the Bureau within 90 days in terms of Rule 37 of the Bureau of Indian Standards (BIS) Act, 2016.

5. Paragraph 6 of the operative portion of the compounding order dated 15 June 2023 is transcribed below for the convenience of reference:

“6. In case the applicant is aggrieved by this order, they may prefer an appeal to the Director General of the Bureau within ninety days as per Rule 37 of BIS Rules 2018.”

6. Now, by the impugned communication dated 9 August 2023, this Appeal has been rejected by the Appellate Authority by observing thus: -

“9 August 2023

Our Ref: CMED/GEN/14

To,

*Shri Vinayak M. Bhide,
Head-Legal & Company Secretary
Ador Welding Limited, Ador House,
6, K. Dubash Marg, Fort, Mumbai-400001-16
Maharashtra.*

Subject: Appeal against Compounding Order

Sir,

This has reference to your letter bearing Ref. No. DDGW/2023-24/MUBO-II dated 28.06.2023 on the above mentioned subject matter.

2. In this regard, it is informed that as per BIS Act, 2016 and BIS Rules, 2018, there is no provision for appeal against the order passed by Compounding Authority for compounding of offence. Hence, your case could not be considered for further necessary action.

3. Further, it has also been observed that the matter is pending in the Hon'ble Court of Judicial Magistrate, Bhiwandi and Hon'ble High Court of Bombay. Hence, the appeal is not admissible. The demand draft dated 28.06.2023 is hereby returned and attached herewith.

4. This is for your kind information please.

Thanking you,

Encl: As stated

*Regards,
(Praveen Kumar)
Scientist-E/Director & Head
Complaint Management &
Enforcement Department.”*

7. Admittedly, before rejecting the Petitioner's Appeal as not being maintainable, the Petitioner was not heard by the Appellate Authority. Mr Kadam, Learned Senior Counsel for the Petitioner, submits that an anomalous situation would arise if the Appeal against the compounding order is held not to be maintainable. He submits that the impugned order is traced to Section 17 of the BIS Act, 2016, and the Rules made thereunder, and was therefore appealable.

8. At this stage, we do not propose to go into the issue now raised by Mr. Kadam. However, we are satisfied that such an order rejecting the Petitioner's Appeal as not maintainable or on the ground that some matter is pending before the Judicial Magistrate at Bhiwandi should have been preceded by at least minimum compliance with principles of natural justice and fair play. The Petitioner should have been given an

opportunity to put forth its case as to how the Appeal was maintainable and was required to be decided on the merits.

9. This was more so because the compounding order, which was appealed, had itself provided that an appeal lay against the same. The limitation period within which such an appeal had to be filed and the authority before whom such an appeal had to be preferred were also stated in the compounding order. After all this, the appeal should not have been rejected on the ground of maintainability without hearing the Petitioner. Since this has not been done, we quash and set aside the impugned communication dated 9 August 2023 and restore the Petitioner's Appeal to the Appellate Authority.

10. The Appellate Authority must now hear the Petitioner and decide, inter alia, the issue of maintainability of the Appeal, and if the Appeal is held to be maintainable, then to decide the Appeal on its own merits and in accordance with law.

11. In this Petition, Mr. Kadam points out that interim protection was granted to the Petitioner in this Petition by order of 13 July 2023. The protection has continued thus far. The hearing of the appeal can be expedited, and the protection can continue until the appeal is disposed of.

12. Accordingly, we direct that this interim protection will continue until the Appellate Authority disposes of the Appeal and communicates the order of disposal to the

Petitioner.

13. The parties must appear before the Appellate Authority on 15 December 2025 at 3.00 pm and file an authenticated copy of this order. The Appellate Authority is directed to dispose of the Appeal as expeditiously as possible and in any event, on or before 31 March 2026.

14. We have not examined any of the rival contentions, including the contention of maintainability of the Appeal. Therefore, all contentions of all parties on the issue of maintainability and/or merits of the matter are left open.

15. The Petition is disposed of, and the Rule is made absolute to this extent only, without any order of costs.

16. All concerned must act on an authenticated copy of this order.

(Advait M. Sethna, J)

(M.S. Sonak, J.)