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

WRIT PETITION NO. 299 OF 2025

Vina Ahuja, sole proprietor of Venus
Designs, a sole proprietary concern having
its office at Unit No.19, Ujagar Industrial
Estate, W. T. Patil Marg, Deonar, Govandi,
Mumbai – 400 088
(PAN: AAFPA4893E) ...Petitioner

Vs.

1. The Commissioner of Customs (Export)
Drawback (XOS) Section, through
the A Asst. Commissioner of Customs
(DBK [XOS], ACC, Mumbai), Air Cargo
Complex, Sahar, Andheri (East),
Mumbai – 400 099

2. Kotak Mahindra Bank Ltd.
A company incorporated under the Companies
Act, 1956 having its registered office at, 27 BKC,
C 27, G Block, Bandra Kurla Complex,
Bandra (E), Mumbai – 400051

3. Variety Garments
IEC No. 795002009
38/8A, Bazaar Street,
Neelasandra, Bangalore,
Karnataka – 560047 ...Respondents

Mr. Kumar Kothari a/w Tushad Kakalia, Kayomars Kerawalla i/by Vohuman Legal for the Petitioner.

Mr. Jitendra B. Mishra a/w Sangeeta Yadav, Ashutosh Mishra and Rupesh Dubey for Respondent No.1.

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

DATED : 22 September 2025

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

1. Heard Mr. Kothari, learned counsel for the Petitioner and Mr. Mishra, learned counsel for Respondent No.1.

2. Rule. The Rule is made returnable immediately at the request and with the consent of learned counsel for the parties.

3. Mr Kothari, on instructions, states that relief in terms of prayer clause (a) is not being pressed. The Petitioner only presses for relief in terms of prayer clauses (b) and (c), which read as follows:-

> *"b) That this Hon'ble Court be pleased to issue a writ of Mandamus or a writ in the nature of Mandamus, directing Respondent No.1 and 2 to refund the amount of Rs.2,94,206/- with interest at 18% per annum from the date of wrongful recovery until repayment;*
>
> *c) That this Hon'ble Court be pleased to Order and direct Respondent No.1 to rectify their records, including but not limited to deleting the PAN and office address of the Petitioner from M/s. Variety Garments;"*

4. The record shows that a demand was addressed for an amount of Rs . 2,94,206/- with interest @18% per annum upon the Petitioner by referring to the PAN number of M/s. Variety Garments

(Respondent No.3). The Petitioner states that the Petitioner was not liable to pay any amount based upon a demand made by referring to the PAN number of M/s. Variety Garments. However, the Petitioner was required to make this payment through DD No.223852 dated 26 October 2023, issued by Kotak Mahindra Bank, which was deposited on 8 November 2023 vide challan No.2023-24/1205/21607. The Petitioner accordingly seeks a refund of this amount with interest, as per prayer clause (b), and a direction to the first Respondent to rectify their records so that such mistakes do not occur in the future.

5. Mr Mishra, learned counsel for the Respondent, submitted that by notice of demand dated 31 August 2018, the Petitioner was admittedly liable to pay Rs. ₹ 2,88,000/- towards customs drawback, which the Petitioner had incorrectly claimed. Since this amount was not paid, the Petitioner was liable to pay interest @18% per annum. He submitted that this amount now comes to Rs. 11,50,331/-.

6. Mr Mishra submitted that the Petitioner, vide DD No.223852 dated 26 October 2023, paid an amount of Rs. 2,94,206/- and after that, a further amount of Rs. 3,54,340/- vide DD No.539130 dated 30 April 2024 towards discharge of the liability of Rs. 11,50,331/-. He states that even this leaves a balance of Rs . 4,32,785/-. He submitted that even if it is assumed that there was some confusion regards mentioning of the PAN number of the third Respondent, still there can be no dispute about the Petitioner being liable to pay a total amount of Rs.11,50,331/- and upon adjustment

of the two amounts paid by the Petition i.e. Rs.7,17,546, still, an amount of Rs.4,32,785/- is due and payable by the Petitioner. Therefore, Mr Mishra submitted that no relief may be granted to the Petitioner in this Petition.

7. We have considered the rival contentions.

8. The address of notice of demand dated 31 August 2018 to the Petitioner for an amount of Rs . 2,94,206/- by referring to the PAN number of the 3rd Respondent was clearly an error for which no justification is offered. Based on such a demand, there was no question of the Respondents insisting on payment of Rs. 2,94,206/- and recovering this amount from the Petitioner by November 8, 2023. Upon realising the mistake, this amount should have been forthwith refunded by the Respondents to the Petitioner.

9. The Petitioner admits an amount of Rs . 2,88,879/- is due and payable to the Respondents. That is why, the Petitioner, along with the interest which the Petitioner admits is payable, paid an amount of Rs . 3,54,340/- to the Respondents vide challan dated 3 July 2024.

10. The Petitioner, however, disputes the receipt of demand in respect of the amount of Rs. 2,88,879/- on the dates referred to by the Respondents. Accordingly, the Petitioner submits that no interest was demanded or that no interest as quantified by the Respondents becomes payable. The Petitioner also states that the Respondents have no right to confuse the two issues and try to adjust the amounts incorrectly recovered from the Petitioner with the amounts which the

Respondents claim is legitimately due from the Petitioner, but about which there is a serious dispute.

11. In this case, we agree that two issues concerning the amounts of Rs. 2,88,879/- and Rs. 2,94,206/- are required to be separately considered. There is nothing on record based upon which we can infer that the Petitioner has admitted to the dues of Rs.. 11,50,331/- as the amount being due to the Respondents, which includes principal amount of Rs. 2,88,879/- and the interest amount and the balance towards interest @18% or 15% per annum on compounding basis. If the Respondents assert that this amount is due, it is always open to them to initiate appropriate proceedings and recover the same from the Petitioner in accordance with law.

12. However, it cannot be disputed that the recovery of Rs . 2,94,206/- by quoting the PAN number of the 3rd Respondent was illegal and improper. In these circumstances, the Respondents must refund the amount of Rs. 2,94,206 to the Petitioner, along with interest, which we have calculated at 9% per annum from 8 November 2023 to the date of refund. Such a refund must be made within four weeks of the date the order is uploaded.

13. If the amount with interest is not refunded within four weeks from the date of uploading of this order, then the interest for the balance period will have to be paid by the Respondents but recovered from the officers who are responsible for the delay. An inquiry will have to be held by the Commissioner of Customs to determine the responsibility, and the interest amount will have to be

recovered from the officer responsible. For the delay on the part of the officers in complying with the directions of this Court, a taxpayer's amount should not be utilized. Additionally, the Commissioner must also consider making entries in the confidential records of such officers, provided that this is done in accordance with the due process of law.

14. Accordingly, we dispose of this Petition by making the following order: -

O R D E R

i. The Respondents are directed to refund an amount of Rs.2,94,206/- to the Petitioner within four weeks from the date of uploading of this order, together with interest @9% per annum which will commence from 8 November 2023 till the date of transfer of this amount into the Petitioner's bank account No.8846849302 with Kotak Mahindra Bank i.e. the 2nd Respondent at Chembur branch.

ii. If the above amount is not transferred within the timeline now indicated, then, without prejudice to any action under the Contempt of Courts Act that the Petitioner may choose to initiate, further interest will have to be paid by the Respondents, but recovered from the officers who are responsible for the delay. The directions in paragraph 13, as given above, must be complied with.

15. Nothing in this order will preclude the Respondents from

recovering, by following the due process of law, any amounts which the Respondents consider due and payable by the Petitioner in relation to the demand contending the two orders in original dated 30 March 2017 and order in original bearing No.AC/PTS/591/2018-19/DBK(XOS) dated 31 August 2018. All contentions of all parties in this regard are explicitly kept open because we have not adjudicated upon the same. The Respondents must also take necessary steps to correct their records concerning the Petitioner and M/s. Variety Garments (Respondent No.3) so that such mistakes do not recur in future.

16. The Rule is made absolute in the above terms without any costs order.

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