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

WRIT PETITION NO.1400 OF 2025

ILA Biomarine Private Limited through ... Petitioner
Vivek Narayan Kadam

Versus

The Union of India and Ors. ... Respondents

Ms. Pallavi Singhal a/w. Mr. Sukrut Mhatre, for Petitioner.
Mr. Karan Adik a/w. Ms. Sangeeta Yadav, for Respondent.

**CORAM : M. S. Sonak &
Jitendra Jain, JJ.**

DATED : 2 September 2025

PC:-

1. Heard learned counsel Ms. Singhal for the petitioner and Mr. Adik, learned counsel for the Respondent.
2. The Rule is made returnable immediately at the request of and with the consent of learned counsel for the parties.
3. The petitioner challenges the impugned Order in Original (O-I-O) dated 23 January 2025, *inter alia*, on the grounds that it was issued in breach of one of the principles of natural justice, which requires that an order must be issued by the person who has provided the hearing.
4. On 25 August 2025, after hearing learned counsel for the parties, we made the following order:

“1. Ms. Pallavi Singhal, learned Counsel for the Petitioner points out that though the impugned order is appealable, this Petition is instituted because the same has been made in breach of the principles of natural justice. She points out that hearing in this matter was granted by Mr. Prasanna V. P. Additional Commissioner of Customs. However, the impugned order has been made by Ms. Hemlata Rai, Additional Commissioner of Customs, Group II B, JNCH. She submits that this is impermissible and in any event, amounts to breach of the principles of natural justice.

2. At our request, Mr. Karan Adik has accepted notice on behalf of the Respondents. He states that he will obtain instructions on the aspect now argued by Ms. Pallavi Singhal.

3. Accordingly, we list this matter on 02 September 2025 for directions/disposal.”

5. Today, Mr. Adik, learned counsel for the respondent, has not been able to obtain any instructions. However, we are not inclined to adjourn the matter any further because the records very clearly establish that the officer who heard the petitioner has not made the impugned order, and the officer who has made the impugned order never heard the petitioner or their representatives.

6. The record bears out that a show-cause notice was issued to the petitioner by Ms. Hemlata Rai, Additional Commissioner of Customs, Group II B, JNCH. After almost a year, i.e. on 22 February 2024, a personal hearing was granted to the representatives of the petitioner by Mr. Prasanna V. P., Additional Commissioner of Customs. However, again, for a period of almost a year, no order was made disposing of the show-cause notice. The impugned O-I-

O was made on 23 January 2025 by Dr. Subhash Yadav, the successor/ Additional Commissioner of Customs. Before making this order, Dr. Yadav did not hear the petitioner or his representatives. In such circumstances, we are satisfied that there was a breach of one of the principles of natural justice referred to above and the impugned order is required to be quashed and set aside without relegating the petitioner to avail an alternate remedy under the statute.

7. Ms. Singal has relied upon the decisions in the case of *Gullapalli Nageshwara Rao and Ors. Vs. Andhra Pradesh State Transport Corporation and Anr¹*, and *Rashid Javed vs. State of U.P.²*. These decisions hold that a person who hears must decide, and the principle that divided responsibility is destructive of the concept of judicial hearing is too fundamental a proposition to be doubted.

8. In *Automotive Tyre Manufacturers Association vs. Designated Authority and Others³* and *Union of India and Ors. Vs. Shiv Raj and Ors.⁴* the Hon'ble Supreme Court noted that even written arguments are no substitute for oral hearing and that very person/officer who affords hearing to the objector must also submit a report/take decision on the objection and in case the successor decides the case without giving a fresh hearing, the order will stand vitiated as violative of the principles of natural justice.

¹ AIR 1959 SCC 308

² (2017) 7 SCC 781

³ (2011) 2 SCC 258

⁴ (2014) 6 SCC 564

9. Ms. Singal has also relied on the CBCE circular dated 5 August 2003. It states that where a personal hearing is concluded, the order must follow within 30 days (at most). Ms. Singal also relied on CBCE instructions in the draft adjudication manual 2011, which says that where an adjudicating officer is likely to be transferred or promoted, passing formal orders is to be treated as a top priority for the outgoing officer, and if any case remains undisposed, the successor must grant a fresh hearing before passing an order.

10. Even apart from the above circulars or provisions of the draft adjudicating manual, the principles of natural justice require that the officer who has heard the petitioner must decide the matter. In any case, the successor officer cannot decide the matter based on the hearing that might have been given by the predecessor officer. Such a divided responsibility undermines the concept of a fair judicial or quasi-judicial hearing.

11. Based on the above findings, we accept the challenge made in this petition and set aside the impugned order in the original dated 23 January 2025. Since we have set aside the impugned O-I-O solely on the ground of violation of principles of natural justice, we restore the show cause notice dated 1 February 2023 for fresh adjudication before the concerned authority. This time, however, the concerned authority must ensure that the officer who hears the petitioner is the one to pass the order.

12. All contentions of all parties are left open, including the contention that the show cause notice dated 1 February 2023 is without jurisdiction. The concerned adjudicating authority must dispose of the show cause notice within a maximum period of three months from the date of uploading of this order.

13. The rule is made absolute in the above terms without any order for costs.

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

(Jitendra Jain, J)

(M. S. Sonak, J)