

Chaitanya

CHAITANYA
ASHOK
JADHAV

Digitally signed by
CHAITANYA ASHOK
JADHAV
Date: 2025.06.25
10:42:10 +0530

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

WRIT PETITION NO. 1764 OF 2025

M/s. PFIVE Bullions Pvt. Ltd. ... Petitioner

Versus

Union Of India And Ors. ... Respondents

Mr Prashant Mishra a/w Adv. Chahat Modi, Mr Bharat Jadhav,
Adv Purla Birla, Ms Asmita Pandey i/b Enact Legal, for
Petitioner.

Mr Subir Kumar a/w Mr Harshad Shingnapurkar, Adv Soutrik
Kar, for Respondent.

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

DATED : 23 JUNE 2025

PC:-

1. Heard learned counsel for the parties. The learned counsel for the Respondents tenders his reply in the Court. The same is taken on record.
2. After this Petition was instituted, the Respondents have issued a show cause notice dated 21 June 2025, under Section 124 of the Customs Act, 1962.
3. Accordingly, we propose to dispose of this Petition by giving liberty to Petitioners to respond to the show cause notice and raise all permissible contentions, including the contentions raised in this Petition.

4. Learned counsel for the Petitioner, however, submitted that we should issue certain directions for the provisional release of the goods. Prayer clause (b) of the Petition refers to provisional release of the goods in terms of Sr. No. 5(b) of paragraph 3 in C.B.E. & C.'s Circular No. 38/2016, dated 22 August 2016. There is a controversy whether Sr. No. 5(b) of the Circular will apply in the facts of the present case. The Circular, otherwise, requires securing the duty demand to the extent of 100% by providing a bank guarantee or cash deposit as convenient to the importer. The controversy as to whether the case of the Petitioner falls under Sr. No. 5(b) or whether, it is governed by other sub-clauses of Sr. No. 5, would involve adjudication into factual issues. As it stands, a show cause notice is already issued to the Petitioner.

5. Therefore, in the interest of justice and by balancing the interest of the Petitioner as well as the Revenue, we direct the provisional release of the Petitioner's goods held under Bill of Entries Nos. 7974563 dated 21 January 2025 and 8268069 dated 10 February 2025, within seven days of the Petitioner furnishing a bank guarantee from a Nationalised Bank, in the amount of Rs. 50 lakhs.

6. We have determined the bank guarantee amount at Rs. 50 lakhs, because the learned counsel for the Petitioner submitted that the value of the goods would be approximately Rs. 8.69 crores. He also submitted that if the treaty provisions under the Indo-ASEAN Treaty are not applied, then, the duty

would correspondent to 6% of the value of the goods. Accordingly, the duty payable would be in the range of Rs. 50 lakhs or more.

7. All contentions of all parties are left open and should be taken into consideration while disposing of the show cause notice dated 21 June 2025.

8. The show cause notice shall also be disposed of within eight weeks from the date of the Petitioner filing its response.

9. Regarding the demurrage charges, it will be open to the Petitioners to apply to the Respondents for waiver. If such an application is made the same should be disposed of in accordance with law.

10. The Petition is accordingly disposed of.

(Jitendra Jain, J)

(M.S. Sonak, J)