

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

WRIT PETITION NO. 3871 OF 2025

Vikram Mulay

...Petitioner

Versus

The Additional Commissioner of Customs
Import Group Vb Acc I & Ors.

...Respondents

Mr. Rajan Mishra a/w Shareen Gupta and Tanay Vyas i/by Sudyumna Nargolkar for the Petitioner.

Mr. Satyaprakash Sharma a/w Suman Das and Harpreet Kaur Sethi for the Respondents.

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

DATED : 16 October 2025

P.C.:-

1. Heard learned counsel for the parties.
2. The Petitioner challenges order dated 29 July 2025 confiscating the Petitioner's imported goods or in the alternate releasing the imported goods upon payment of redemption fine.
3. Mr. Mishra learned counsel for the Petitioner submitted that no confiscation order could have been made without issuing any show cause notice to the Petitioner. Mr. Sharma referred to letters dated 15 July 2025 and 17 July 2025 addressed by the Petitioner to the

custom authorities, in which they pleaded with the custom authorities that a show cause notice need not be issued and the custom authorities must approve and release the consignment urgently. He submitted that accordingly no show cause notice was issued, but a hearing was granted and the impugned order was made.

4. At this stage, we do not wish to finally pronounce on the issue of failure of natural justice for want of a show cause notice. But given the two communications, out of which only one was annexed to this Petition, we think that the Petitioner, best avails of the alternate remedy of Appeal available to him.

5. As against the impugned order, the Petitioner has alternate and efficacious remedy of an Appeal. No exceptional case is made out for by passing this rule of exhaustion of alternate remedies. In a clear case of breach of natural justice, we do entertain Petitions. However, where there is an arguable contest on whether, these principles have been breached, it is best that the Petitioner approaches the appellate authority which can effectively adjudicate such a contention.

6. Learned counsel for the Petitioner, on instructions, submits that the Petitioner will be willing to pay the differential duty and interest. However, he submits that there is no question of paying any redemption fine because, according to him, under the law, such a redemption fine or penalty could not have been imposed upon the Petitioner.

7. All these issues can be raised in the Appeal. Suppose the

Petitioner institutes an Appeal within two weeks of uploading of this order. In that case, the appellate authority must decide the Appeal on its own merits and in accordance with law without adverting the issue of limitation. All the contentions of all parties on merits including the contention raised in this Petition are kept expressly open for the determination of the appellate authority.

8. At this stage, Mr. Mishra states that insofar as the 14th consignment (live consignment) the Petitioner will, without prejudice, pay the differential duty and interest. Again, on instructions, he states that the Petitioner will also offer a bank guarantee of a nationalised or scheduled bank to secure the payment of the redemption fine of Rs . 4,50,000/- and the penalty of Rs. 12,45,875/-. Based on this, Mr Mishra submitted that this Court should order the release of the goods comprising the live consignment. He pointed out that these goods are spectrometers (scientific equipment) and the Petitioner requires this equipment urgently.

9. According to us, the request now made by Mr Mishra on instructions appears to be reasonable.

10. Accordingly, while maintaining the liberty granted to the Petitioner to appeal the impugned order, we direct that if the Petitioner indeed pays the differential duty along with interest and provides a bank guarantee to secure the redemption fine amount and penalty, then the custom authorities are directed to release the live consignment within a week of such compliance by the Petitioner. We

also note that the payments made by the Petitioner are without prejudice and under protest and making of such payments will not disentitle or prejudice the Petitioner's right to appeal the impugned order and contest the imposition of redemption fine and penalty.

11. This Petition is disposed of in the above terms without any costs so ordered.

12. All concerned to act upon an authenticated copy of this order.

(Advait M. Sethna, J)

(M. S. Sonak, J.)