OD-07

CC/119/2025
Arising out of
WPO 148 of 2025
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (CONTEMPT)
ORIGINAL SIDE

INDIAN PAINT ASSOCIATION
VERSUS
SHRI ARVIND SHRIVASTAVA & ORS.

Before:
The Hon'ble Justice RAJA BASU CHOWDHURY
Date: 8th May 2026

Appearance:
Mr. Ashish Chandra, Advocate
Mr. Anupal Dasgupta, Advocate
Mr. Shubrojyoti Mookherjee, Advocate
Mr. Arnab Roy, Advocate
for the petitioner

Mr. N. Venkatraman, Ld. ASG
Mr. Vipul Kundalia, Sr. Advocate
Mr. Anurag Roy, Advocate
For the alleged contemnors

1. The contempt application has been filed complaining non-compliance of the judgment and order dated 22nd September 2025, inter alia, on the ground that notwithstanding this Court quashing of the final findings dated 12th February 2025 in Initiation Notification Case no. AD(OI)-03/2024 dated 28th March 2024 and the Notification No. 12/2025-Customs (ADD) dated 10th May 2025 of the Department of Revenue, Ministry of Finance, Government of India levying the recommended anti-dumping duties, the alleged

contemnors have continued to act in furtherance of the notification no.12/2025-Customs (ADD) dated 10th May 2025 of the Department of Revenue, Ministry of Finance, Government of India and levy anti-dumping duties on import of Titanium Dioxide from China PR.

2. The matter was initially moved on 14th November 2025 whereupon this Court had directed service of the contempt application on the alleged contemnors. Pursuant to the aforesaid order the alleged contemnors had caused appearance through the learned Additional Solicitor General on 5th December 2025 and an accommodation was sought for. Later, on 12th December, 2025 the communication dated 5th December, 2025 issued by the Director, Government of India, Ministry of Finance, Department of Revenue was placed before this Court to contend that such direction was issued in compliance of the direction passed by this Court on 22nd September 2025. On the said date, the Court was, however, of the view that since it was not clear from the above communication as to the status of the levy that had already been collected by the respondents post 22nd September, 2025, the respondents were directed to obtain appropriate instructions as to whether there was any proposal pending at the end of the Government for return of the levy already collected. Subsequently, on 22nd December, 2025 since, it was submitted by Mr. Kundalia, learned senior advocate representing the alleged contemnors by placing the communication dated 18th December, 2025 that the anti dumping duty collected

after the date of the judgment, would be refunded subject to compliance with the procedure under Customs Act, 1962 and Rules framed thereunder, this Court, in the light of such disclosure, had directed the alleged contemnors to file affidavit of compliance. Pursuant to such direction, affidavit of compliance has been filed by the alleged contemnors in Court.

3. Today, learned Additional Solicitor General appearing for the alleged contemnors has drawn the attention of this Court to paragraphs 4 and 5 of the affidavit of compliance and the communication dated 5th December, 2025 and would submit that due to an inadvertent misinterpretation of the direction contained in the order dated 22nd September, 2025 that the customs authority had mistakenly by misinterpreting such direction had continued to collect the anti dumping duty. However, the same has been corrected by issuing the communication dated 5th December, 2025. It is still further submitted that Secretary, Department of Revenue, Ministry of Finance the alleged contemnor no.1 has categorically stated in his affidavit of compliance affirmed on 3rd March 2026 that the levy of anti dumping duty was stopped promptly and a decision was taken to refund the amount collected, immediately after the contempt proceeding was initiated before this Court.

4. He has also drawn the attention of this Court to the fact that the petitioner has already in terms of the above direction applied for refund of the anti dumping duty which was collected. Such

applications are under process and as such, the contempt application should not be continued any further.

5. Mr. Roy, learned advocate appears for the petitioner. Though at the very outset, he sought for an adjournment, however, considering the fact that the alleged contemnors have already filed individual affidavits in the matter and have stated that a decision has been made to refund the levy already collected, this Court has taken up hearing of this matter. Mr. Roy, by drawing attention of this Court to the affidavit-in-reply filed by the petitioner, would submit that though the petitioner had applied for refund relying on the communication dated 18th December, 2025, however, the refund applications, which are pending for more than six months, are yet to be processed. He submits that the respondents cannot be permitted to hold on to the levy which has been illegally recovered post the order dated 22nd September 2025. In fact, the entire levy being contrary to the order is bad and should be refunded forthwith.

6. Having heard the learned advocates appearing for the respective parties, I find that though after the order dated 22nd September 2025 was passed, no levy ought to have been collected as basis for collection of the anti-dumping duty stood removed. However, as submitted by the learned Additional Solicitor General, there has been an inadvertent misinterpretation of the direction passed by this Court. In this context, it would be relevant to refer to paragraphs 4 and 5 of the affidavit affirmed by the alleged

contemnor no.1. More fully to appreciate the same, the relevant paragraphs are extracted hereinbelow:

> *"4. I further state that in pursuance of Hon'ble Court's direction for clarification of the said Instruction dated 05.12.2025, it has been specified that the refund of the anti-dumping duty collected after Hon'ble Court's judgement dated 22.09.2025 is admissible subject to compliance with the procedure under the Customs Act, 1962 and Rules framed thereunder.*
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> *5. I submit that the concerned Customs authority continued levying anti-dumping duty solely due to an inadvertent misinterpretation of the direction that "Levy if any, collected in the meantime shall be subject to the final outcome of the proceedings." The Customs authority mistakenly interpreted this direction as that anti-dumping duty may be collected till the matter was reconsidered by the Designated Authority as per Hon'ble Court's directions. It is submitted that the same does not amount to wilful or deliberate non-compliance with the Hon'ble Court's judgment. The levy of anti-dumping duty was stopped promptly, and a decision was taken to refund the amount collected, immediately after the contempt proceedings were initiated before this Hon'ble Court."*

7. Having regard to the above and the explanation provided and since a decision has already been taken to stop collecting anti dumping duty promptly and to refund the amount collected, and since the petitioner, availing the above decision, has already applied for refund, I am of the view that no fruitful purpose would be served in

retaining the contempt application on the file especially when the alleged contemnors have been able to appropriately explained the circumstances under which they had continued to collect the anti dumping duty. Further, since it has been submitted by the learned Additional Solicitor General of India that the petitioner's applications for refund shall be immediately processed in furtherance to the statement made in paragraph 5 of the aforesaid affidavit, this Court by relying on the same and noting that the refund application shall be immediately processed, considers it appropriate not to proceed with the contempt application any further.

8. Accordingly, the contempt application (CC/119/2025) stands disposed of, without any order as to costs.

(RAJA BASU CHOWDHURY, J.)

R. Bose/sm