IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12590 OF 2024

Victory Ventures Inc.
(Proprietor, Dilep Rochiram Daryanani),
202-B, Kakad Palace, 31, Turner Road,
Bandra (W), Mumbai-400 050. Petitioner

versus

1. Union of India through
Department of Revenue, New Delhi.
2. Central Board of Indirect Taxes & Customs,
through Chairman, New Delhi.
3. Additional Commissioner of Customs
Group 2G, NS-I, Nhava Sheva.
4. Superintendent of Customs, SIIB(I),
Nhava Sheva. Respondents

Mr.Abhishek A.Rastogi with Ms.Pooja M.Rastogi, Ms.Meenal Songire, Ms.Aarya More for Petitioner.

Mr.Vijay Kantharia with Ms.Sangeeta Yadav for Respondents.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.

DATE: 6th March 2026

P.C.

1. This petition under Article 226 of the Constitution of India is filed praying for the following reliefs :

> "a) quash the Impugned Order dated 6.10.2022 (Exhibit-A) passed by Respondent no.3;
>
> b) set aside the Impugned Order dated 6.10.2022 (Exhibit-A) and remand the matter to Respondent no.3 for fresh adjudication in respect of goods referred at Sr.Nos.1 and 2 of para 5 (PVC rolls) after conducting a fresh market survey in presence of the Petitioner's proprietor, issuing a detailed show cause notice thereafter (if required) and following all principles of natural justice;

c) set aside the Impugned Order dated 6.10.2022 (Exhibit-A) in respect of all goods, and remand the matter to Respondent no.3 for fresh adjudication by conducting a fresh market survey in the presence of the Petitioner's proprietor, issuing a detailed show cause notice thereafter (if required) and following all principles of natural justice;

d) direct Respondent no.3 to allow amendment of Bill of Entry No.6184455 dated 9.11.2021 (Exhibit-B) for correcting the classification of goods referred at sr.nos.4 of para 5 (unbranded jackets), under section 149 of the Customs Act, and refund the Customs duties previously paid in excess;

e) quash the Seizure Memo dated 1.3.2022 passed by Respondent no.4 (Exhibit-C);

f) direct Respondent nos.3 and 4 to provisionally release the goods imported vide Bill of Entry No.6184455 dated 9.11.2021 upon furnishing of such security, bond or undertaking by the Petitioner as this Hon'ble Court deems proper, following previous orders passed in WP No.13178 of 2023 (Appellate Side) (Exhibit-G and Exhibit-H) pending disposal of this writ petition;

g) grant waiver of demurrage charges in respect of goods imported vide Bill of Entry No.6184455 dated 9.11.2021 still in possession of Respondent no.3 and 4, following previous orders in WP No.13178 of 2023 (Appellate Side) (Exhibit-G and Exhibit-H) pending disposal of this writ petition;

h) grant waiver of interest on Customs duties payable in respect of Bill of Entry No.6184455, since the goods were unlawfully detained and seized without any fault of the Petitioner;

i) alternatively, permit the Petitioner to file an appeal against the Impugned Order dated 6.10.2022 passed by Respondent no.3 (Exhibit-A) before the Commissioner of Customs (Appeals) JNCH under section 128(1) of the Customs Act and direct the appellate authority to decide the appeal on merits;

j) direct Respondent nos.1 and 2 to prescribe guidelines regarding procedure to be followed for conducting market surveys in Customs proceedings, so that uniform practices are followed by field formations across the country;
k) stay operation of the Impugned Order (Exhibit-A) dated 6.10.2022 passed by Respondent no.3, pending disposal of this writ petition;

l) restrain Respondents from taking any coercive action against the Petitioner, pending disposal of this writ petition;

m) allow the Petitioner to inspect the seized goods presently in custody of Respondent no.4 to assess damage, if any, and accordingly intimate this Hon'ble Court, pending disposal of this writ petition;

n) grant costs of this petition and damages representing the value of goods, to the extent reduced due to illegal seizure;

o) grant ex-parte ad-interim reliefs in terms of prayer clauses (f),(g), (j), (k), (l) and (m) above."

2. The petitioner is the sole proprietor of M.s.Victory Ventures Inc. He had undertaken imports of what is described to be fabrics/table cloths and as described in the Bill of Entry No. 6184455 to be PVC rolls, PVC table covers, readymade jackets (branded and unbranded). There was a dispute in regard to the classification of the imports as also the valuation. The case of the Petitioner is that the Petitioner had not received a show cause notice from the Respondents. The Respondents contend that it was waived by the Petitioner. There is a dispute on this issue as well. An order in original was passed on 6th October 2022 by Respondent no.3 on the show cause notice.

3. The goods were detained on 1st March 2022 under a seizure memo. The Petitioner tried to seek provisional release of the goods, however, after the order-in-original dated 6th October 2022 was passed by the Respondents, the present petition came to be filed.

4. We find that there are no ad-interim orders passed on this petition. In the meantime, the Petitioner has moved this Court praying for a joint inspection on the condition of goods. Accordingly there was a joint inspection on 4th March 2026. A joint inspection report is placed on record, which is marked as "X" for identification.

5. Learned advocate for the Petitioner, on instructions, submitted that the goods have completely deteriorated and are not worthy of any sale in the market, and even if some goods are sold, it would not fetch any value. He, therefore, submits that the Department is free to deal with the goods and recover any amounts.

6. We are in fact saddened to see the plight of the Petitioner as also that the entire exercise of import is rendered a sheer waste merely on a issue of classification. The goods are of no utility neither to the Petitioner nor to the Revenue as to what was ordered in the order-in-original. The irony of the matter is that a small consignment of the Petitioner, who is the sole proprietor, has met with such unfortunate fate on account of a dispute on classification, is not an acceptable position for either of the parties. Considering this case, we are of the opinion that in respect of small entrepreneurs and the imports which are not very large, an approach which would make the small business effective and at the same time the interest of the Revenue is protected, needs to be taken by the concerned officers, so that the trade does not suffer. Any hard approach, as in this case, certainly would not benefit the Department as also the importer and more particularly when the importer is a small enterprise. Such approach may prove to be counter productive to the very trade of small scale import and domestic trade.

7. Be that as it may, as the goods have completely deteriorated, learned advocate for the Petitioner has submitted that the Department is free to deal with the goods i.e. either auction the same or destroy, and appropriate intimation of either of it be given to the Petitioner. In the event any amount is realized in any auction/sale, let the same be appropriated by the Department and if any surplus amount is available, the same be paid to the Petitioner so as to pay off the liability towards warehousing charges.

8. Insofar as demurrage is concerned, in the peculiar facts of the case and without delving into as to why such affairs have occurred, we are of the opinion

that the order of this Court passed in Writ Petition No.13178 of 2023 (Victory Ventures Inc. Vs. Union of India and others), dated 13th February 2024, needs to be followed, wherein the Court while ordering provisional release of the good, also directed the Respondents to issue the Petitioner demurrage waiver certificate.

9. In this view of the matter, without delving into the rival contentions, we put a quietus to the proceedings. In the circumstances, the order-in-original dated 6th October 2022 issued by Respondent no.3 is quashed and set aside. The petition is accordingly disposed of in terms of aforesaid observations. However, with a direction to the Respondents that the Respondents shall issue a demurrage waiver certificate insofar as goods in question and subject matter of Bill of Entry No.6184455, dated 9th November 2021. No costs.

(AARTI SATHE, J.) **(G. S. KULKARNI, J.)**