IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2670 OF 2026

Draps Ventures Pvt. Ltd. ...Petitioner
Versus
Union of India & Ors. ...Respondents

Mr. Prakash Shah, Senior Advocate a/w Brijesh Pathak, Anjali Joshi, D. Jain i/b. Advocate Legal for Petitioner.

Ms. Mamta Omle a/w S. D. Deshpande i/b. Nitee Pande for Respondents.

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

DATE: 11th MARCH 2026

P.C.

1. Rule. Rule made returnable forthwith. With the consent of parties, heard finally.

2. This Petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs:-

> "(a) that it is just, equitable and in the interest of justice that this Hon'ble Court may be pleased to hold and declare that impugned actions on the part of the officers of the 2nd and 3rd Respondents, in withholding the clearance of the consignment of Walnut Kernel covered by Bill of Entry No. 7217571 dated 30.01.2026, Exhibit-J and directing the Petitioner to furnish the Bank Guarantee of Rs. 2,68,43,299.60, is without any basis of whatsoever nature and in breach of the statutory provisions and the same causes and deserves to be set-aside, in the interest of justice;
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> (b) to issue Writ of Mandamus or any other appropriate writs, orders or directions under Article 226 of the Constitution of India ordering and directing the Respondents and their subordinates, to forthwith release the goods: Walnut Kernel, covered under the Bill of Entry No. 7217571 dated 30.01.2026, Exhibit-J;"

3. The Petitioner in the present Petition is challenging the impugned action on the part of Respondent Department in withholding and detaining the consignment of Walnut Kernels imported by the Petitioner without any specific reason. The Petitioner contends that the consignment of Walnut Kernels has been examined and also the certificate of origin issued by the supplier has been found to be proper and genuine, despite which the Respondent/Department has detained the Walnut Kernels as imported by the Petitioner.

4. Briefly the facts are as follows:-

i. The Petitioner is a company incorporated under the Companies Act as a Private Limited Company and is a regular importer, distributor and trader of dry fruits. The Petitioner placed an order for purchase of Walnut Kernels originating from Afghanistan through Kings Industries FZE, Jabel Ali, and availed the concessional rate of duty under the South Asian Free Trade Area (SAFTA) Agreement. The intermediary arranged the import of Walnut Kernels from the supplier based in Afghanistan.

ii. On 3rd December 2025, the supplier at Afghanistan issued two invoices for the import of Walnut Kernels totally weighing 51,600 Kgs. along with certificate of origin, Phytosanitary Certificate, certificate for Non-Genetically Modified Organism (NON-GMO) and Genetically Modified (GM) Free consignment, packing list and transit certificate establishing that the Walnut Kernels were being transported from Afghanistan to Jawaharlal Nehru Port (JNPT), Nhava Sheva, India.

iii. The Walnut Kernels were stuffed in two separate containers and loaded at Bandar Abbas Port, Iran, on the Vessel 'MV Reyfa' amongst various other containers. The shipping line issued two bills of lading and in the first bill of lading, it was mentioned that the Walnut Kernels were loaded at Bandar Abbas Port, Iran, and the place of discharge was Jabel Ali Port, UAE, and the final place of delivery was JNPT, Nhava Sheva, India. In the second bill of lading, it was recorded that the port of loading was Jebel Ali Port, UAE and port of discharge as well as port of delivery was JNPT Nhava Sheva, India.

iv. On 23rd January 2026, the Master of vessel filed Import General Manifest (IGM), and the vessel arrived. On 30th January 2026, the Petitioner filed Bill of Entry no. 7217571 for clearance of the Walnut Kernels stuffed in two containers. The containers were unloaded on 1st February 2026. On 1st February 2026, the Officers of Directorate of Revenue Intelligence (DRI), recorded statement of Master of the vessel, wherein he had stated that all the 309 containers were loaded at Bandar Abbas Port, Iran and no container was either loaded or offloaded at Jebel Ali Port, UAE.

v. On 2nd February 2026, on the basis of the aforesaid investigation, a notice/circular was issued by the DRI, directing the officers to conduct proper examination of the documents and relevant details while carrying out assessment of the Walnut Kernels. The Walnut Kernels were examined by the officers of the

Customs as well as Plant Protection Officer, Department of Agricultural & Farmers Welfare. The Plant Protection Officer after having examined the Walnut Kernels, issued release order for clearance of the consignment of Walnut Kernels. On the same date, the officers of the Customs conducted examination and verification of the two certificates of origin and after having verified the authenticity of the same, 'Defaced' the two certificates of origin. A fresh email was also issued directing re-examination of the Walnut Kernels and the declaration was filed by the importer i.e. Petitioner.

vi. On 5th February 2026, the officers of the Customs conducted 100% examination of the Walnut Kernels and also caused verification of the documents tendered wherein no discrepancy was found.

vii. On 7th February 2026, the Bill of Entry filed by the Petitioner was re-assessed and the same contained a clause of furnishing provisional duty bond equivalent to the assessable value of the consignment of Walnut Kernels. On the same date, the Petitioner also furnished the provisional duty bond in the office of the Customs Department.

viii. However, on 13th February 2026, despite tendering the provisional duty bond, the officers of the Respondent Department did not permit clearance of the Walnut Kernels and accordingly a representation was addressed in this regard by the Petitioner, wherein a request to re-examine the documents tendered, if required, was also made, and to clear the consignment of the Walnut Kernels.

ix. On 17th February 2026, Respondent No.3 re-assessed the Bill of Entry and included a fresh condition therein of furnishing bank guarantee to the tune of Rs.2,68,43,298.60/- and this condition according to the Petitioner was without any basis or reason. It is this action on part of the Respondent Department of withholding the clearance of Walnut Kernels and directing furnishing of bank guarantee, which is contended to be unreasonable and without the authority of law (impugned action) is sought to be challenged in the present Petition.

5. Learned Senior Advocate Mr. Prakash Shah along with Mr. Brijesh Pathak, Ms. Anjali Joshi and Mr. Dulraj Jain instructed by Advocate Legal appeared on behalf of the Petitioner. Ms. Mamta Omle instructed by Ms. Nitee Punde appeared on behalf of the Respondents.

6. Learned Counsel on behalf of the Petitioner reiterated the submissions made in the Petition and prayed that the reliefs as prayed for in the Petition be allowed.

7. Ms. Omle, learned Counsel for the Respondents vehemently opposed to the reliefs as sought for in the present Petition and submitted that the clearance of the Walnut Kernels was required to be effected only once the bank guarantee was furnished by the Petitioner and hence withholding of the Walnut Kernels was rightly done by the Respondents inasmuch as there was no clarity insofar as the certificates of origin were concerned.

8. Having heard learned counsel for the parties and having perused the record and proceedings, we proceed to decide the present Petition.

9. We are of the view that the impugned action on the part of Respondent Department in withholding the Walnut Kernels and insisting on a fresh bank guarantee for releasing of the consignment of Walnut Kernels is arbitrary and contrary to the earlier actions taken by the Respondent Department in respect of the clearance of the Walnut Kernels. It is quite clear from the facts of the case that on 5th February 2026, 100% examination of the Walnut Kernels was made and documents were verified and thereafter on 7th February 2026, the Bill of Entry was re-assessed with a clause for furnishing provisional duty bond equivalent to assessable value of the Walnut Kernels. The Petitioners have in fact furnished the aforesaid provisional duty bond and further the officers of the Customs have also on 2nd February 2026 'Defaced' the certificates of origin from where the Walnut Kernels have been imported. By the impugned action, the Respondent Department has not assigned any reason as to why an additional bank guarantee is required for the purpose of release of the Walnut Kernels when already a provisional duty bond has been furnished by the Petitioner on an earlier occasion.

10. We are in agreement with the Petitioner's contention that only on account of a mistake by the captain of the vessel in filling the details in the IGM, the Walnut Kernels imported by the Petitioner cannot be withheld, especially when the certificate of origin has been defaced by the Customs Authority after verification and there is no dispute regarding its origin from Afghanistan which is a contracting state under the SAFTA Agreement. The Respondent Department also has not raised any objection or produced on record anything contrary to show that

the consignment of Walnut Kernles has not originated from the contracting state under the SAFTA Agreement i.e Afghanistan. We are also inclined to accept the arguments as advanced by the Petitioner that once the Bill of Entry has been provisionally assessed and the provisional duty bond has been furnished by the Petitioner, further condition of furnishing bank guarantee could not have been imposed by the Respondent Department.

11. We are also inclined to reject the arguments as advanced by the Respondent Department that no investigation was made verifying the country of origin from where Walnut Kernels were imported or from where the same were loaded, inasmuch as the Respondent Department themselves have defaced the certificate of origin on 2nd February 2026.

12. Considering the aforesaid factual position, in view of the fact that the provisional duty bond has already been furnished by the Petitioner, we are of the view that the clearance of the Walnut Kernels imported by the Petitioner cannot be withheld and the same should be released by the Respondent Department by accepting the provisional duty bond. Further, in response to a query raised by this Court regarding the financial stability and health of the Petitioner Company, one Mr. Shubham Sharma, Director of the Petitioner Company has filed an affidavit dated 12th March 2026 disclosing credentials of the business of the Petitioner company and its bank account. Such affidavit is served on the advocates for the department.

13. In view of the aforesaid, in the peculiar facts of the case and without the same being treated as a precedent, we deem it fit to pass the following orders, which will meet the ends of justice: -

ORDER

a. The Respondent Department to clear the import of Walnut Kernels covered by the Bill of Entry no. 7217571 dated 30th January 2026 within a period of two weeks from the date this order is made available by the Petitioner to the Respondent Department, on accepting the provisional duty bond furnished by the Petitioner on 7th February 2026 without insisting for a bank guarantee.

b. Petition is allowed.

c. Rule made absolute in the aforesaid terms. No costs.

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