

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3161 OF 2026

NBG International Private Limited,
B-901, Tower B, CTS No.620,
Runwal Elegance, Lokhandwala Complex Lane,
Veera Desai Road, Near Raheja Classiq,
Andheri (W), Mumbai-400 053.

Petitioner

versus

1. The Union of India through
the Secretary, Department of Revenue,
New Delhi.
2. The Commissioner of Customs,
Preventive Unit, R & I Division,
11th Floor, New Customs House,
Ballard Estate, Mumbai-400 001
3. The Deputy Commissioner of Customs,
Nhava Sheva Preventive Unit, R & I Division,
Ballard Estate, Mumbai.
4. The Joint Commissioner of Customs,
NS-I, JNCH, Nhava Sheva,
Uran, Dist.Raigad.
5. The Superintendent of Customs,
Nhava Sheva Preventive Unit, R & I Division,
Ballard Estate, Mumbai-400 001.

Respondents

Mr.Darius Shroff, Senior Advocate. With Mr.Jas Sanghavi i/by PDS Legal for
Petitioner.

Mr.Jitendra B.Mishra with Mr.Abhishek R.Mishra, Mr.Rupesh Dubey for
Respondent nos.1 to 3.

Mr.Jitendra Mishra with M.Sangeeta Yadav for Respondent no.4.

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

DATE: 6th March 2026

JUDGMENT – (Aarti Sathe, J.) :-

1. Rule. Rule made returnable forthwith. Heard finally by consent of the parties.
2. This petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs :

“(a) That this Hon’ble Court be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate writ or order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner’s case and after going into the validity and legality thereof to quash and set aside (i) the impugned seizure memo dated 7.2.2026 issued by Respondent no.5 (Exhibit-A herein) and (ii) order dated 20.2.2026 passed by Respondent no.4 (Exhibit-B herein) to the extent it seeks a bank guarantee of Rs.10 lacs and undertaking stating that the goods would not be used for human consumption;

(b) That this Hon’ble Court be pleased to issue Writ of Mandamus or a Writ in the nature 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 officers, subordinates, servants and agents to forthwith permit clearance of the Roasted Areca Nuts covered under Bill of Entry Nos.6695720 dated 3.1.2026 and 6829010 dated 11.1.2026 (Exhibit-C and D herein) for home consumption on payment of appropriate duty.”

3. The primary challenge in the present petition is the action of Respondent no.5 in illegally seizing the roasted areca nuts (the imported goods) covered under two Bill of Entries vide seizure memo dated 7th February 2026 and the order of provisional release dated 20th February 2026 passed by the Respondent no.4 to the extent it imposes a condition seeking no use bond from the Petitioner and also seeking a bank guarantee in respect of the said imported goods which the Petitioner contends is without any authority of law and in breach of the provisions of the Food Safety and Standards Act, 2006 (FSSA Act).

4. Brief facts are as under: The Petitioner is a private limited company incorporated under the provisions of Companies Act, 1956 and is, *inter alia*, carrying on the business of imports of nuts, spices, food commodities and related items since the year 2023. The Petitioner on 3rd January 2026 imported the aforesaid imported goods and filed two Bills of Entries bearing Nos. 6695720 dated 3 January 2026 and 6829010 dated 11 January 2026 classifying the said goods under Customs Tariff Head CTH20081991 on “first check basis”. The assessment of the said goods was assigned under the Faceless Assessment Group of National Assessment Centre. The officer under the Faceless Assessment Group conducted 100% examination of the imported goods and issued his examination report.

5. Thereafter the imported goods covered under Bill of Entry No.6695720 dated 3rd January 2026 were examined by the Authorized Officer from the Food Safety and Standards Authority of India (FSSAI) and the said officers also drew samples for testing in the presence of the officers of Customs. By way of a test report dated 12th January 2026, the National Food Laboratory, a premium testing Laboratory of FSSAI, confirmed that the said sample drawn by the authorized officer, were complying with the characteristics of roasted areca nut free from visible extraneous matter. In view of the aforesaid test report dated 12th January 2026, the FSSAI provided its No Objection Certificate (‘NOC’) for clearance of the imported goods. Subsequently the imported goods covered under Bill of Entry No.6829010, dated 11th January 2026, were examined by the Authorized Officer from FSSAI. The said officer drew samples for testing in the presence of officers of

Customs. Subsequently test report dated 19th January 2026 was given by the National Food Laboratory, FSSAI, confirming that the said sample drawn was complying with the characteristics of the roasted areca nut free from visible extraneous matter.

6. On the basis of the said test reports, the FSSAI issued another NOC on 19th January 2026 for clearance of the imported goods. Since the FSSAI report did not specify the moisture content of the samples, on 20th January 2026, the Petitioner made a request for inclusion of moisture in the test report of the imported goods. Pursuant thereto, the officer of FSSAI forwarded the same samples for further analysis. On 22nd January 2026, on the basis of NOC dated 19th January 2026 issued by FSSAI, the officers of Jawaharlal Nehru Customs House (JNCH) Customs issued out of charge order in respect of Bill of Entry No.6829010 dated 11th January 2026, however no out of charge order was issued in respect of Bill of Entry No.6695720, dated 3rd January 2026.

7. It is the Petitioner's contention that in spite of out of charge order dated 22nd January 2026 issued by the officers of JNCH Customs in respect of one Bill of Entry, the Respondent no.3 issued a letter of even date informing the Petitioner that both the consignments in respect of Bills of both Entries were put on hold, and further sought to conduct fresh examination of the imported goods on 23rd January 2026. The imported goods covered by the aforesaid two Bill of Entries were re-examined by the officers of Respondent no.2 and the panchanama was drawn on 23-24th January 2026 in the office of M/s.Speedy Multimodes Ltd. CFS , Uran Road, JNPT, Navi Mumbai. The Petitioner on 24th January 2026

made a representation to Respondent no.3 that the classification of the goods was correctly made and there was no reason for the Respondent no.3 to send the samples of the imported goods for re-testing again.

8. On 28th January 2026 the Petitioner addressed a letter to Respondent no.3 pointing out that the action taken by Respondent no.3 in forwarding the consignment of the imported goods and also of re-testing the imported goods was unlawful and the same could not be undertaken by Respondent no.3. The Petitioner also filed additional submissions on 28th January 2026 informing Respondent no.3 that the test reports furnished by FSSAI had opined that the samples drawn from the consignments confirmed to the standards laid down under Regulation No.2.12.1 of FSSAI Regulations and that the moisture content was below 10%. The Petitioner, therefore, contended that the re-testing of the samples was not required in the facts of the present case. In response to the Petitioner's aforesaid representation, Respondent no.3 issued a letter-cum-NOC bearing No.GEN/INT/16/2026-NsPU-R, dated 28th January 2026 for warehousing of the goods under Section 49 of the Customs Act, 1962 (Customs Act). Further, a NOC for clearance of goods under test bond under Section 18 of the Customs Act was also issued and a letter to that effect was sent to the Petitioner. The Petitioner by their e-mail dated 29th January 2026 requested Respondent no.3 to release the consignments and once again on 9th February 2026 similar request was sent to Respondent no.3, as the goods were incurring heavy warehousing and other charges.

9. On 5th February 2026, the Respondent forwarded the report issued by Central Revenue Control Laboratory (CRCL) under the cover letter dated 6th February 2026 in respect of the samples drawn on 23-24th January 2026 and tested on 5th February 2026. On the basis of aforesaid CRCL reports, Respondent no.5 issued the impugned seizure memo dated 7th February 2026, which, the Petitioner contends, did not contain Document Identification Number (DIN), though the same is a mandatory requirement. Respondent no.3 also issued a letter dated 11th February 2026, granting NOC for provisional release of the imported goods under Section 110A of the Customs Act. By another letter dated 11th February 2026, Respondent no.3 further sought to draw fresh samples of the imported goods again.

10. On 20th February 2026, Respondent no.4 passed the impugned order of provisional release of imported goods under Section 110A of the Customs Act, subject to conditions mentioned therein and directed the Petitioner to execute a No Use Bond of the declared assessable value and to furnish an undertaking that the imported goods shall not be used for human consumption till their edibility report is issued by the CRCL and execution of Provisional Disclosure bond (PD bond) and execution of bank guarantee of Rs.10,00,000/- was not made by the Petitioner. The Petitioner on 23rd February 2026 in response to the aforesaid impugned order, requested the Respondents to allow clearance of goods on submission of PD bond without insisting upon execution of a No Use Bond which had to state that the goods are not fit for human consumption. It is the Petitioner's contention that there was no response from the Respondents to the aforesaid

request of the Petitioner and the imported goods remained seized with the Respondents without the Petitioner being able to clear the same.

11. It is in the backdrop of the aforesaid facts that the issue which has fallen for consideration of this Court is whether the impugned seizure memo and the impugned order of provisional release of imported goods by Respondent no.3 and Respondent no.5 respectively are in exercise of the proper authority of law and have been passed without considering the credible reports submitted by the Petitioner i.e. the reports of FSSAI.

12. We have learned Senior Advocate Mr.Darius Shroff with Mr.Jas Sanghavi for Petitioner and Mr.J.B.Mishra with Mr.Abhishek Mishra and Ms.Sangeeta Yadav for Respondent nos.1 to 4. With the assistance of learned counsel for the parties we have perused the impugned order and the impugned seizure memo along with relevant regulations and the reports issued by the FSSAI and CRCL.

13. The primary contention as urged on behalf of the Petitioner is that the action of Respondents in seizing and re-classifying the goods and re-examining them, despite reports from FSSAI confirming that the imported goods are in line with the standards laid down under Regulation No.2.12.1 of Food Safety and Standards (Food Product Standard & Food Additives) Regulations, 2011, is without authority of law and arbitrary. The contentions of the Petitioner can be summarized as follows :

(a) It was submitted that once the FSSAI had by its test reports dated 12th January 2026 and 19th January 2026 confirmed that the imported goods are safe and fit for the human consumption, there was no justification or reason on the part

of Respondents to re-examine the imported goods and subsequently assess the same;

(b) It was further submitted that the FSSAI has provided NOC for the imported goods and the Respondents had nowhere raised any doubt insofar as the credibility of the said reports are concerned. Therefore, the action of the Respondents in not permitting clearance of the imported goods and issuance of the impugned seizure memo and the impugned order, was without authority of law;

(c) It was also submitted that the FSSAI reports were issued after the authorized officers fairly examined the imported goods ensuring correctness and safety of the food articles and thereafter NOC dated 12th January 2026 and 19th January 2026 was issued for the release of the imported goods. Regulation 14(a) of the Food Safety and Standards (Import) Regulations 2017, as per Form-3 reads thus :

“A) The sample confirms to the specification laid down for all the parameters in the Act and the rules and the regulation made thereunder;

B) The sample does not confirm to the specification laid down for all the parameters in the Act and the rules and regulation made thereunder for parameters.”

(Emphasis supplied)

It is in consonance with the aforesaid Regulation 14.1 that the NOC was issued by the FSSAI;

(d) Further Notification No.57 of 2015-2020, dated 10th February 2021, issued by Director General of Foreign Trade (DGFT) provides that for the mandate of safe food import in India, the FSSAI has notified authorized officer to handle the food import clearance and entry points, and the authorized officers

listed would handle the food import clearance. Therefore, it was submitted on behalf of the Petitioner that once the FSSAI has notified the authorized officers and the authorized officers have examined the goods and drawn the samples for testing and sent the goods to a laboratory, then the action of the Respondents to question the credibility of the reports is arbitrary;

(e) It was further submitted that since the earlier reports of FSSAI did not specify the moisture content, the Petitioner voluntarily sent the same for re-testing to get specified moisture content and those reports also showed that the moisture content of the imported goods was below 10%, which clearly establishes the fact that the imported goods were of roasted areca nuts and they conform to the applicable standards of FSSAI Regulations. There were absolutely no grounds in the FSSAI reports and no where did the reports specify that the imported goods were not fit for human consumption;

(f) It was further submitted that the CRCL report which was issued on the insistence of the Respondents to re-test the imported goods also did not specify or come to a finding that the imported goods were not fit for human consumption. In fact, the said reports, barring two test reports, confirm that the moisture content in the samples of the imported goods were below 10% and the samples were fit for human consumption. The CRCL test reports, barring making some observations regarding minimal damage, have not been able to satisfactorily demonstrate as to how the imported goods are not roasted areca nuts which are unfit for human consumption.

14. Learned counsel on behalf of the Respondents has vehemently opposed the submissions made by the Petitioner and contended that the action on the part of the Respondents of re-testing the imported goods and sending them to CRCL, was the correct course of action, inasmuch as the imported goods did not specify the test of being roasted areca nuts. He has sought to place heavy reliance on the test reports, as given by CRCL, and has contended that the CRCL has rightly come to the conclusion that the imported goods were not roasted areca nuts and therefore, the seizure thereof has been rightly made by the Respondents.

15. We had also permitted samples to be produced before us so as to examine them to ascertain the rival contentions. Accordingly, the same were produced before us. On examining, we are of the opinion that the petitioners would be correct to contend that the imports are in fact roasted areca nuts.

16. We are thus in agreement with the contentions as made on behalf of the Petitioner that once the FSSAI has cleared the imported goods as fit for human consumption, and also has specified the moisture content in the said test reports, then to question the wisdom of FSSAI, would not be an appropriate approach on the part of the Respondents, as the FSSAI itself being a statutory body is recognized under the Rules to certify the imports. It is not disputed on behalf of the Respondents that the FSSAI is acting under various rigorous provisions of the statute and also the stringent Rules and Regulations framed thereunder. Further, the Respondents have not been able to give any plausible or satisfactory explanation as to why re-testing/re-examination of the imported goods was sought to be done by the Respondents. Learned counsel for the Respondents has tried to

canvass the argument that the imported goods are not fit for human consumption by placing reliance on the test reports issued by CRCL basis the observation by CRCL that some parts of the imported goods were damaged nuts and the damage was primarily on account of mould or insects. We are not in agreement with the aforesaid submission, considering the reports of the FSSAI. Even assuming that a minuscule percentage of the goods which are agricultural products, are stated to be damaged, it cannot be that the same yardstick is applied to the entire consignment. If such tests are applied to the several range of agricultural products domestically available from the indigenous sources, it would be impossible for any agricultural produce to have a market. Illustratively, 10 grains from a sample of 1000 grains cannot be determinative of the standard of the majority of the grains. The FSSAI reports cannot be disregarded, which was made available immediately after the samples of the imported goods were drawn for testing.

17. A Division Bench of this Court in the case of **Make Index Impex Vs. Union of India and others**¹, of which one of us (G.S.Kulkarni, J.) was a member, in the context of import of Soya bean, which the Respondents had contended, was harmful for human consumption, has clearly held that once a clear stand is taken by the FSSAI that the Soya bean in question was in no manner harmful for human consumption in whatever form and was in light of the requirements and parameters of FSSAI Rules, any contrary position could not be adopted by the Customs Department and the goods have to be released in the facts of the case. Relevant paragraphs of the aforesaid decision are reproduced below :

¹2023-SCC OnLine-Bom-1678

“13. Accordingly, a clear stand of the FSSAI is on record that the Soya bean sought to be cleared by the petitioner and subject matter of the present proceedings, in no manner whatever would be harmful for human consumption/health in whatever form, in the light of the requirements and parameters of the FSSAI Act, 2006 and the Rules framed thereunder, if the goods are permitted to be cleared.

14. Considering such clear position on record, we are of the opinion that the approach as now sought to be adopted by the Customs Department and more particularly in the light of the position taken by respondent no.1-Union of India, respondent no.8-Genetic Engineering Appraising Committee as also respondent no.10-Ministry of Environment, Forest & Climate Change and most significantly by respondent no.7-Food Safety & Standards Authority of India, we are of the opinion that the approach as suggested by Mr.Vyas, learned ASG and as noted by us above, ought to be accepted, and the proceedings, without prejudice to the rights and contentions of the parties on any of the issues, which may arise, be disposed of by the following order.” (Emphasis supplied)

18. Further, the Food Import Manual issued by FSSAI clearly specifies the steps to be taken insofar as laboratory analysis is concerned. It is only after this laboratory analysis is made, that a NOC is issued by the FSSAI and then on the basis thereof, the goods can be released. The relevant procedure for laboratory analysis is reproduced below :

“iv) Laboratory Analysis :

- a) The sample of the imported food product is forwarded to the notified laboratory that is auto selected randomly in the Food Import Clearance System (FISC);
- b) The samples of imported Food sent by the Officer authorized by FSSAI are analyzed by the laboratory as per parameters defined in the FSS Act and the Regulations thereunder;
- c) The laboratory shall complete the analysis and upload the test report in FICS in Form 2 of the FSS (Import) Regulations, 2017) within five days of receipt of the sample with conclusive opinion about the product tested as conforming or non-conforming.
- d) For testing of food Import consignments through a transparent and expeditious process, NABL accredited laboratories have been notified by FSSAI throughout the country. These FSSAI notified laboratories are also utilized for testing of imported food consignments by the Authorized Officers of Customs Department. FSSAI has also notified 22 Referral labs other than the Primary labs, for re-testing of appeal samples of the Importers. The list of the food testing labs is available at <https://www.fssai.gov.in/cms/food-laboratories.php>.”

(Emphasis supplied)

It is seen from the above procedure that insofar as laboratory analysis is concerned, the analysis and test reports are made by FSSAI within five days from the date of receipt of sample with conclusive opinion about the product tested as conforming or non-conforming. This goes on to show that the tests conducted by the FSSAI are of precise nature and high standards of testing are ensured and made applicable before clearing the food suitable for human consumption. In this view of the matter, we are of the opinion that any window for reclassification of the categorised goods, itself is not on a sound premise, in the facts and circumstance of the case.

19. In the light of the aforesaid discussion, we are of the firm opinion that the action of the Respondents to detain the Petitioner's imports in question, is not justified. We are, therefore, inclined to dispose of the present petition in terms of the following order :-

ORDER

- (i) The impugned seizure memo dated 7th February 2026 issued by Respondent no.5 and the impugned order dated 20th February 2026 passed by the Respondent no.4 to the extent it seeks bank guarantee in the sum of Rs.10,00,000/- is quashed and set aside;
- (ii) The Respondents to release the roasted areca nuts covered under Bill of Entry Nos. 6695720 dated 3rd January 2026 and 6829010 dated 11th January 2026, on payment of appropriate duty within two weeks from the date this order is made available to the Respondents by the Petitioner;
- (iii) The release of the imports on the aforesaid terms is on the condition that after the clearance of the goods, the petitioner before selling the goods in the

domestic market shall undertake an exercise of cleaning the goods by removing the damaged goods (affected by mould or insects) under the supervision of an officer to be nominated by the FSSAI and only on a further certification of the edible standards of the goods, the Petitioner shall be permitted to deal with the same in the domestic market for the purpose of human consumption and not otherwise. The clearance of the goods and the location of the storage for the purpose of the aforesaid exercise be informed to the FSSAI official, who shall escort the goods to the proposed location.

(iv) It is clarified that without the certification of the FSSAI or on an appropriate certification of the FSSAI on the impurities, if any, being fully removed, the petitioners shall not deal with the goods.

(iv) The Respondents to release the roasted areca nuts without insisting upon any security deposit and undertaking for no use for human consumption from the Petitioner, upon the Petitioner executing a bond for the payment of duty, if any, payable;

(v) Rule is made absolute in the above terms. No costs.

(AARTI SATHE, J.)

Per G.S. Kulkarni, J.:—(Concurring)

20. I have gone through the judgment of my learned Sister, I completely concur with the observations and the directions issued by Her Ladyship, however, I wish

to express some thoughts on the issue considering that an element of public interest is involved in such cases.

21. We had permitted the parties to jointly draw samples from the consignment and bring them to the Court. This was merely to satisfy our conscience, as to whether the case of the Department that the areca nuts, subject matter of petitioner's imports, were in fact not "roasted areca nuts", and/or they were raw areca nuts, as claimed by the department. The reason being, considering the nature of goods, which are an agricultural produce, even a non-expert or a layperson, can readily discern the difference between roasted and non-roasted areca nuts. Raw areca nuts have a distinct visible appearance, with the tissues (inside part of the areca nuts at the centre of the fruit) being distinctly visible of its raw qualities, which is markedly different, from the areca nuts which are roasted. Thus, such categories of areca nuts cannot be intermixed. This also because roasting involves the areca nuts (betel nuts) being subjected to a process of roasting².

22. The parties had fairly placed before the Court the samples drawn from the imports. Both the sides also presented samples of non-roasted areca nuts, as they appear in their natural form, as freely available in the domestic market. We could readily perceive the difference at the first go. The learned counsel for the parties, who also had the first occasion to physically examine the imports, would not disagree with the striking difference in the properties of the raw and the roasted areca nuts. Thus imports are certainly of roasted areca nuts. The claim of the department based on the report of the CRCL that there is moisture content, hence,

2 Roasting involves drying the de-husked kernels and then subjecting them to repeated, high-heat cooking and cooling cycles to shrink the nut and make it brittle and aromatic.

areca nuts as imported by the petitioner, are non-roasted areca nuts, is clearly not well-founded.

23. There is another significant aspect which requires a mention. Considering that the imports in question are meant for human consumption, a note of caution needs to be sounded. The FSSAI is under an onerous obligation to adhere to the strictest standards in the examination of imports, as its statutory obligation is of food safety and maintenance of the highest standards in that regard. Food safety also concerns quality of the food which includes its raw materials. There cannot be any compromise, whatsoever, on the quality of goods meant for human consumption, be it imports or domestic products. It is not acceptable that any rejected or inferior quality goods are permitted to enter the country, thereby allowing dumping of cheap or sub-standard products. Hence, in a given situation irrespective of the adventure and the audacity of the importers to bring into the country, any sub-standard imports for human use and consumption, such imports should be dealt with iron hands. In a given situation, such imports would certainly achieve a colour of illegality. This needs to be the yardstick even for indigenous products or edibles or products that a human would consume.

24. Thus, to maintain the quality of imports of edible goods (raw or otherwise), is certainly an obligation of FSSAI to act with utmost care, precision and rigor, in certifying both imported and domestically manufactured food products, as the health of the nation equally lies in the hands of this 'specialized authority'. It cannot be countenanced that the Food Safety Standards, in any manner, are compromised and "we the people" are subjected to any inferior or sub-standard

products. It is only when such highest standards are achieved, a successful march in attaining international standards on food safety and public health can be ensured.

(G. S. KULKARNI, J.)