

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

EXECUTION APPLICATION NO. 1624 OF 2024

Lanvin Synthetics Pvt. Limited And Anr.

...Applicants

Versus

**Union of India, through Secretary
(Finance) Department of Revenue & Ors.**

...Respondents

WITH

NOTICE NO. 27 OF 2025

WITH

INTERIM APPLICATION (L) NO. 12841 OF 2026

Mr. Darius B Shroff, Senior Advocate with Mr. Rahul P. Jain i/b Alpha Chambers for the Applicants.

Mr. J. B. Mishra with Mr. Ashutosh Mishra and Mr. Rupesh Dubey for the Respondents No. 1 to 4.

Mr. D. P. Singh for the Respondent No. 5.

Mr. Sham Walve, Amicus Curiae present.

CORAM : ABHAY AHUJA, J.

DATE : 7th MAY, 2026

PC. :

1. This matter has been listed for passing of order.
2. When the matter is called out, Mr. Walve, learned Amicus Curiae appointed in the matter tenders across the bar a Composite Final Report dated 6th May, 2026, submitting that copies of the same have already been furnished to the parties. The said report is taken on record and marked 'X' for the purposes of identification.

3. Earlier on various dates ending with 30th April, 2026, this Court has heard Mr. Shroff, learned Senior Counsel appearing for the Applicant as well as Mr. Mishra, learned Counsel appearing for the Union of India as well as the Respondents No. 2 and 3 and Mr. D. P. Singh, learned Counsel for the Respondent No.5.

4. These execution proceedings seek assistance of this Court for execution of final order dated 24th October, 2018 read with order dated 11th July, 2023 of Division Benches of this Court in the Writ Petition No. 1638 of 2018 and Writ Petition No. 2842 of 2022, which are annexed as Exhibits A and J to the affidavit in support of the Execution Application.

5. Mr. Shroff, learned Senior Counsel for the Execution Applicant has submitted that the Writ Petition No. 1638 of 2018 was filed seeking direction to the Respondents to hand over all documents along with a certificate giving the calculation of Unutilized Duty Foregone pertaining to the 41 advance licenses together with the lost or misplaced certificates as required by the Director General of Foreign Trade (the “DGFT”) viz. the Respondent No. 5. Mr. Shroff has submitted that after hearing Mr. Jetly, learned Counsel appearing for the Customs, who had stated that if the Petitioner approaches the Customs, necessary licenses

and documents relating to 41 advance licences would be made available to the Petitioner under a Panchanama and that the Customs would render all assistance in computing the duty foregone on the basis of record available, the Petition came to be allowed in terms of prayer Clause (a), which reads thus:-

“(a) For a writ of mandamus, or a writ, direction or order in the nature of mandamus or any other appropriate writ direction or order directing the Respondents to forth with handover all documents alongwith a certificate giving the calculation fo unutilized duty forgone, pertaining to the 41 advance Licences together with the Lost or Misplaced Certificate as required by DGFT.”

6. That, thereafter, on 17th October, 2019, the Appellate Authority of the DGFT set aside the cancellation of 29 licenses and remanded the same for revalidation, subject to submission of various documents, which were in the custody of the Custom department.

7. On 25th November, 2019, the Execution Applicant forwarded the DGFT order to the customs to render the necessary assistance to comply the duty foregone statement.

8. On 17th July, 2020, the Customs wrote to the DGFT that (i) the duty foregone did not have relevance; (ii) the Execution Applicants could not ask for both the duty foregone and revalidation and (iii) in

compliance with the High Court order and the additional DGFT's order, they were submitting documents and a chart.

9. On 10th September, 2020, the DGFT replied to the customs *inter alia* stating that the documents submitted by the Customs were sufficient / complete for the Customs to calculate the duty foregone.

10. It has been submitted that since no action was taken by the Customs, the Applicant was constrained to file Writ Petition No. 6111 of 2020, which was subsequently renumbered as Writ Petition No. 2842 of 2022 seeking a direction that the Respondents should be directed to comply with the directions given by this Court in judgment dated 24th October, 2018.

11. It is not in dispute that after orders dated 30th June, 2022 and 29th September, 2022, on 20th October, 2022, upon a suggestion from the Court, Mr. Sham Walve, learned Advocate of this Court was appointed as Amicus Curiae, although there is no order to this effect, however, Mr. Walve kindly accepted the appointment.

12. Thereafter, from 9th November, 2022 till the order dated 11th July, 2023 and thereafter as well correspondence and documents have been exchanged between the parties and the learned Amicus.

13. On 11th July, 2023, a Division Bench of this Court in Writ Petition No. 2842 of 2022, after recording that since there were factual disputes it was agreed between the parties that Mr. Walve, learned Advocate of this Court would look into the issues and after taking into consideration all the documents, which would be submitted and the say of the parties, make appropriate calculations and also observing that since Mr. Walve could not conclude on the calculations, the matter had been adjourned and proceeded to observe that in their opinion it was for the Respondents to comply with the orders dated 24th October, 2018 passed in the Writ Petition No. 1638 of 2018, followed by consequent orders passed by the DGFT being order in Appeal dated 17th October, 2019 and take all consequential steps as the orders would mandate. It was also observed that the remedy available for the Petitioner was to execute the orders passed by the Court in execution proceedings and there could be no two opinions on the clear position in law. The Division Bench further observed that since Mr. Walve was seized of the task by the consent of the parties, he would undertake the calculation and furnish the same to the parties and after keeping the contentions of the parties expressly open, finally observing that considering the prayers made in the Petition, the Division Bench could not any further adjudicate the Petition and disposed of the Petition.

14. Thereafter, this Execution Application has been filed on 9th February, 2024, seeking assistance of this Court in terms of prayer Clause (A) and failing the same, prayer Clause (B), which reads thus:-

“A. Be pleased to issue Notice under order XXI Rule 34 of the CIVIL PROCEDURE CODE 1908 calling upon the Respondents No. 1 to 4 before this Hon’ble High Court:

(i) to execute the statement (already prepared) of the duty foregone with accrued interest calculated till date of filing of this execution and further interest to be included at the time of issuance, in terms of draft attached hereto as Annexure “A”.

(ii) to issue a lost/misplaced certificate as required by the DGFT in compliance with prayer (a) of the Writ Petition No. 1638 of 2018.

(iii) to hand over all the documents pertaining to 41 licenses.

B. If the Respondents No. 1 to 4 fails or neglects than this court, under Order 21, Rule 34 of Civil Procedure Code 1908, appoint an officer of this Hon’ble High Court and the officer of the Court, be ordered on behalf of the Respondents No. 1 to 4:

(i) to execute the statement (already prepared) of the duty foregone with accrued interest calculated till date of filing of this execution and further interest to be included at the time of issuance, in terms of draft attached hereto as Annexure “A”;

(ii) to cause to issue a lost/misplaced certificate as required by the DGFT in compliance with prayer (a) of the Writ Petition No. 1638 of 2018

(iii) to cause to hand over all the documents pertaining to 41 licences.”

15. Thereafter, the Judge’s Order (L) No. 11135 of 2024 came to be filed seeking dispensation of the Notice under Order XXI Rule 22 of the CPC. After hearing the learned Senior Counsel on behalf of the

Execution Applicant, the Notice under Order XXI Rule 22 was dispensed with by order dated 4th September, 2024.

16. It has been submitted that on 12th July, 2024, the Notice under Order XXI Rule 34 of the CPC was issued to which a reply had been filed by the Respondents on 16th August, 2024, a further affidavit in reply dated 9th December, 2024 was also filed by the Respondents to which a rejoinder was filed on 29th December, 2024. Thereafter, reports/notes were submitted by the learned Amicus and also further meetings were held before the learned Amicus and finally today a Composite Final Report has been filed by Mr. Walve with respect to the calculation of unutilized duty foregone, which has been summarized in a chart tendered across the bar by the learned Senior Counsel for the Execution Applicant. The said chart is taken on record and marked 'Y' for the purposes of identification.

17. In the reply to the Notice issued by this Court and also in the Interim Application that has been filed on behalf of the Customs department, the Customs department has pleaded impossibility to execute the two orders under execution.

18. Mr. Shroff, learned Senior Counsel for the Execution Applicant has vehemently opposed the same submitting that the very same arguments on merits that had been taken up before the two Division Benches in the two Writ Petitions as well as in the Appeal before the DGFT, have sought to be re-agitated in the reply as well as in the Interim Application and that cannot be permitted. Mr. Shroff, learned Senior Counsel has submitted that neither of the two orders in execution viz. the order dated 24th October, 2018 or the order dated 11th July, 2023, have been set aside or even modified by any Court nor any Appeal has been filed against the said orders and it cannot lie in the mouth of the department / Respondents to now come and plead impossibility.

19. Mr. Shroff, learned Senior Counsel submits that against the order dated 24th October, 2018, a review had been filed, which review has also been dismissed on 20th September, 2025. That the said review order has also become final as there is no challenge pending against the said order.

20. I agree with Mr. Shroff as no material to the contrary has been placed before me. A party cannot raise an objection to an execution proceeding on the very same grounds that have been raised on merits

in proceedings that have led to the passing of orders of which execution is being sought and one of which was passed in view of the submissions made on behalf of the Respondents No. 1 to 3. Obviously this Court being an Executing Court cannot act as the Appeal Court to once again hear the matter on merits. A review to one of the orders under execution has also been dismissed. An Executing Court cannot go behind a decree is well settled. Therefore, there being no impossibility demonstrated before this Court, the Execution Application deserves to be allowed.

21. Learned Senior Counsel appearing for the Applicant submits that since the learned Amicus has with the assistance of the parties, officers and Counsel, computed the unutilized duty foregone as contained in the Composite Final Report, the Annexure A referred to in the Execution Application be read as the Chart of Unutilized Duty Foregone as per the Composite Final Report by the learned Amicus and marked 'Y' for the purposes of identification.

22. Mr. Mishra, learned Counsel appearing for the Union of India, cannot have any objection to the same and leaves it to the orders of this Court.

23. Accordingly, let the chart tendered across the bar and marked 'Y' for the purposes of identification, be read as Annexure A to the Execution Application.

24. Ergo, having heard the learned Senior Counsel for the Applicant as well as the learned Counsel appearing for the Respondents and having considered their submissions and in view of the Composite Final Report dated 6th May, 2026 by the learned Amicus Curiae, setting out the unutilized duty foregone, as also contained in the chart as above, I am of the view that the Execution Application be allowed in terms of the Clause J(A), (ii) and (iii) as quoted below, (i) already having been worked out in terms of the Composite Final Report:

(ii) to issue a lost/misplaced certificate as required by the DGFT in compliance with prayer (a) of the Writ Petition No. 1638 of 2018.

(iii) to hand over all the documents pertaining to 41 licenses.

25. The Respondents No. 1 to 4 are directed to comply with the aforesaid prayer within a period of four weeks.

26. In the event of failure to comply with the prayer Clause (A) in the time granted above, the execution to proceed in terms of prayer Clause (B) (ii) and (iii), (i) already having been worked out in terms of the Composite Final Report.

27. The Execution Application accordingly stands allowed and disposed as above. The Interim Application is dismissed. In view of the aforesaid order, the Notice is made absolute as above.

28. Mr. Shroff, learned Senior Counsel appearing for the Execution Applicant presses for costs against the Customs Department for delaying the proceedings by filing the Interim Application, which is refuted by Mr. Mishra, learned Counsel for the Respondents No. 1 to 3, submitting that since there was no prayer pleading dismissal of the execution proceedings on the ground of impossibility in the reply, the Interim Application was filed *bonafide* taking up the very same grounds with a prayer.

29. While this Court would have acceded to Mr. Shroff's request, however, considering that the Respondents No. 1 to 3 appear to have filed the proceedings in good faith, the request for costs is not acceded to. Accordingly, no costs.

Digitally
signed by
NIKITA
YOGESH
GADGIL
Date:
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(ABHAY AHUJA, J.)