



Chaitanya

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8248 OF 2025

Vortex Speciality Foods LLP Through
Its Partner, Shri. Harshit M. Shah ... Petitioner

Versus

Union Of India, Through The Secretary,
Ministry Of Law And Justice
Department Of Legal Affairs And Ors. ... Respondents

Dr Sujay Kantawala a/w Ms Aishwarya Kantawala, Adv. Jeffry
Caleb, Ms Ayushi Jha, for Petitioner.

Mr Anil Singh, Additional Solicitor General a/w Mr Jitendra
B. Mishra, Ms Sangeeta Yadav, Mr Rupesh Dubey, Mr
Adarsh Vyas, for Respondent Nos.2, 3 and 6.

Mr J. B. Mishra a/w Mr Abhishek R. Mishra, for Respondent
Nos.4 and 5.

**CORAM : M.S. Sonak &
Jitendra Jain, JJ.**

DATED : 01 JULY 2025

PC:-

1. Heard learned counsel for the parties.
2. The Petitioner seeks provisional release of the goods imported under Bills of Entry Nos. 9909289 and 9909041, both dated May 6, 2021, in 36 containers containing Dry Dates.

3. The Petitioner relies upon Circular No. 35 of 2017-Customs dated 16 August 2017, containing Guidelines for provisional release of seized imported goods pending adjudication under Section 110A of the Customs Act, 1962.

4. Clause 2.1 of the Circular states that the seized imported goods shall be released provisionally by the Competent Authority on the request of the owner of the seized goods, subject to executing a Bond for the full value/estimated value of the seized goods.

5. Clause 2.2 of the Circular states that further, in addition to the Bond mentioned at Clause/Para No.2.1, the Competent Authority shall take a Bank Guarantee or Security Deposit to cover the following:

- i. the entire amount of duty/differential duty leviable on the seized goods being provisionally released;
- ii. amount of the fine that may be levied in lieu of confiscation under Section 125 of the Customs Act, 1962 at the time of adjudication of the case. While securing the same, the competent authority shall take into account the nature of the seized goods, the duty and charges payable on the said goods, their market price and the estimated margin of profit;
- iii. amount of penalties that may be levied under the Customs Act, 1962, as applicable, at the time of adjudication of the case.

6. Dr Kantawala submits that the differential duty, even according to the Respondents' version, would amount to approximately Rs. 6 Crores. However, Mr Anil Singh, the learned Additional Solicitor General, on instructions, states that even going by the value declared by the Petitioner, the differential duty amount would come to Rs. 7.8 Crores. He submitted that in fact, according to the Revenue, the amount would be much higher, but at this stage, and without prejudice, even going by the value declared by the Petitioner, the same would come to Rs. 7.8 Crores.

7. Mr Anil Singh, based on instructions from the officers present in Court, submitted that if the Petitioner is willing to submit a Bond as specified in Clause 2.1 of the Circular dated 16 August 2017, and additionally provide a Bank Guarantee or Security Deposit of Rs.7.8 Crores, the goods in question will be provisionally released. He further stated that within seven days of submitting the Bond and Bank Guarantee, the goods would be released on a provisional basis.

8. Dr Kantawala states that the Bond and Bank Guarantee from the IDFC Bank will be furnished within two weeks from today. Although we do not set a timeline for the Petitioner to furnish the Bond and Bank Guarantee, we direct that within seven days of the Petitioner furnishing such a Bond and Bank Guarantee from the IDFC Bank, the Respondents, consistent with the statement made on their behalf, must release the goods provisionally.

9. Permitting the perishable goods [dry dates] to decay would not benefit the Respondents and would cause severe prejudice to the Petitioner. If, following the proposed investigations and adjudication, no fault is found with the imports, the goods would most likely have perished. Therefore, a balanced approach was necessary to ensure that neither party's interests or concerns suffered disproportionately. The circular dated August 16, 2017, is a step in that direction.

10. We do not intend to address the issue of waiver of Detention-cum-Demurrage charges at this stage. However, if the Petitioner submits a request for waiver, we direct that it be disposed of in accordance with the law within three months of receipt.

11. As for other issues, the law will take its own course. We record this because investigations are currently underway, and upon conclusion of the investigations, if necessary, a show-cause notice will be issued to the Petitioner, and the Petitioner will be given a full opportunity to defend itself.

12. This Petition is disposed of in the above terms without any costs order. All concerned must act on an authenticated copy of this order.

(Jitendra Jain, J)

(M.S. Sonak, J)