

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 16711 of 2012
 With
 SPECIAL CIVIL APPLICATION NO. 16712 of 2012
 TO
 SPECIAL CIVIL APPLICATION NO. 16714 of 2012

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE AKIL KURESHI

and

HONOURABLE MS JUSTICE SONIA GOKANI

1.	Whether Reporters of Local Papers may be allowed to see the judgment ?	NO
2.	To be referred to the Reporter or not ?	NO
3.	Whether their Lordships wish to see the fair copy of the judgment ?	NO
4.	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?	NO
5.	Whether it is to be circulated to the civil judge ?	NO

IMROSE TRADERS - A SOLE PROPRIETORY CONCERN OF IMROSE
 IQBAL....Petitioner

Versus

UNION OF INDIA THRO SECRETARY & 2....Respondents

Appearance :

MR PARESH M DAVE, ADVOCATE for the Petitioner.

MR RJ OZA, SENIOR STANDING COUNSEL for the Respondents.

CORAM: HONOURABLE MR.JUSTICE AKIL KURESHI
and
HONOURABLE MS JUSTICE SONIA GOKANI

Date : 28/12/2012
COMMON ORAL JUDGMENT
(PER : HONOURABLE MR.JUSTICE AKIL KURESHI)

1. Petitioners seek release of their goods, namely, used tyres provisionally subject to such conditions as this Court may impose.

2. Briefly stated facts are that the petitioners have imported such tyres under different consignments. The Custom authorities have not released the goods on various grounds, including on the ground of under valuation at the hands of the petitioners and that import of such goods is prohibited. When the petitioners approached this Court previously, with similar prayers, by order dated 12.9.2012, this Court had instead of releasing the goods, given directions for completing the adjudication process early. It was expected that the authorities shall take a final decision on the show-cause notices which are already issued not later than six weeks after the petitioners filed their replies which they had undertaken to do so within two weeks. When the respondents failed to adhere to the said time frame, the petitioners moved these petitions and repeated their requests for provisional release of the goods.

3. In response to the notice issued by us, the respondents

have appeared and filed affidavit-in-reply dated 27.12.2012 and made submissions through their counsel.

4. From such affidavit, we gather that due to several reasons, including those which cannot be attributed either to the petitioners or to the department, final order on the show-cause notices could not be passed within the time envisaged in the earlier order. Despite which, we would have rather appreciated if the respondents had applied for extension of time rather than to take upon themselves to miss the time limit and consider it justified on some reasons or the other.

5. Be that as it may, now that the show-cause notice proceedings have reached at the fag end as is clear from the contents of the petition and the affidavit-in-reply filed by the respondents, we are not inclined to order release of the goods provisionally.

6. Counsel for the petitioners submitted that though before the authority, they had taken time upto 10.1.2013 for filing their submissions, such submissions shall be filed latest by 5.1.2013. Learned counsel Shri Oza for the department submitted that if such submissions are filed as indicated, final order shall be passed on the show-cause notices latest by 15.1.2013.

7. Under the circumstances, these petitions are disposed

of with a direction that if the petitioners file their submissions, as assured to us, by 5.1.2013, the Adjudicating Officer shall pass his final order on the show-cause notices issued to the petitioners latest by 15.1.2013 and communicate the same to the petitioners immediately upon passing of such orders. In view of this, at this stage, we are not considering the request of the petitioners for release of the goods provisionally pending adjudication.

8. With above observations and directions, the petitions are disposed of.

(AKIL KURESHI, J.)

(MS SONIA GOKANI, J.)

Savariya