(2021) 02 GUJ CK 0046

In the Gujarat High Court

Case No : R/Special Civil Application No. 2350 Of 2021

Messrs KS Trading Co APPELLANT

Vs

Union Of India RESPONDENT

Date of Decision : 10-02-2021

Acts Referred:

Citation : (2021) 02 GUJ CK 0046

Hon'ble Judges : J.B.Pardiwala, J;Ilesh J. Vora, J

Bench : Division Bench

Advocate : Amal Paresh Dave, Paresh M Dave

Judgement

J.B.Pardiwala, J

1. We have heard Mr. Paresh M. Dave, the learned counsel appearing for the writ applicant.

2. We propose to pass an interim order in terms of the order passed by a Coordinate Bench of this Court to which one of us J.B.Pardiwala, J. was a

party in the case of M/s. S.S.Tyre Wala Vs. Union of India in the Special Civil Application No.14932/2020. The order reads thus:

â??1. We have heard Mr. Paresh Dave, the learned counsel for the petitioner.

2. The short point involved in the captioned writ application is whether the old and used tires which are reuseable fall within the ambit of the

â??prohibited goodsâ??.

Our attention has been drawn to an order passed by a coordinate Bench of this Court dated 06.11.2015 in the Civil Application (for Direction)

No.9587 of 2015 in the Special Civil Application No.8492 of 2015. Our attention is also drawn to one another order dated 23.12.2015 passed in the

Special Civil Application No.20247 of 2015 which is annexed at pageÂ57 of the paperÂbook. Mr.Dave also invited our attention to one another order

dated 23.02.2018 passed in the Special Civil Application No.1108 of 2018 and allied matters.

3. Prima facie it appears that the issue is squarely covered. However, before passing any final order, we would like to know the stance of the Union

of India. We take notice of the fact that the main matter I.e. Special Civil Application No.8492 of 2015 is still pending for final hearing. We propose to

decide this issue once and for all.

4. Mr.Dave, the learned counsel submitted that the goods imported by his client are lying at the Mundra Port. Mr. Dave prays that an interim order

may be passed to release the goods subject to terms and conditions. We take notice of the fact that an interim order in identical situation was passed

by coordinate Bench in the Civil Application No.9587 of 2015. We quote the relevant part of the order as under:

â??18. For the foregoing reasons, the application succeeds and is, accordingly, allowed. The respondents are directed to forthwith permit assessment

and clearance of the goods imported by the applicant â?" petitioner under Bills of Entry No.17 and 18 dated 16.03.2015 in accordance with the

provisions of the Customs Act, 1962,subject to the following conditions:

I. The Customs authorities shall depute a Surveyor to check whether the tyres are reuseable with or without retreading.

ii. The petitioner shall not clear any goods which are not reuseable.

Iii. The responsible person concerned will file an undertaking to the effect that they will sell the imported goods in a manner that they will be reused.â??

5. Let Notice be issued for final disposal to the respondents returnable on 18.01.2021. The situation being identical in the matter, similar interim

directions are issued subject to similar conditions as referred to above. It is provided that the respondents would ensure compliance of the interim

directions by the returnable date.

6. Registry shall also notify the Special Civil Application No.8492 of 2015 and Special Civil Application No.11569 of 2020 along with this writ petition

for hearing.â??

3. Let Notice for final disposal be issued to the respondents, returnable on 02.03.2021. Situation being identical in the matter, similar interim directions

are issued subject to similar conditions as referred to above. It is provided that the respondents would ensure the compliance of the interim directions

by the returnable date. Let this matter be heard along with Special Civil Application No.8492/2015 and allied matters.

