

(1993) 07 BOM CK 0045

In the Bombay High Court

Case No : Writ Petition No. 2113 of 1984

Oriole (Exports) Pvt. Ltd.

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 28-07-1993

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1993) 49 ECR 587 : (1993) 68 ELT 724

Hon'ble Judges : M.L. Pendse, J;A.P. Shah, J

Bench : Division Bench

Advocate : Mr. N.R. Kantawala and Mr. S.N. Kantawala, instructed by Kantawala and Co, for the Appellant; Mr. S.M. Shah, for the Respondent

Judgement

Pendse, J.—The Petitioner No. 1 are the holders of a import licence dated June 24, 1982 issued during the policy period April to March 1983. The licence was revalidated on December 25, 1983 during April - March 1984 policy. The petitioners imported float glass and tendered 12 Bills of Entry for home consumption. The Customs Authorities served a query memo dated September 1, 1984 enquiring as to under which provisions of licence the goods are imported and whether the import is under OGL. The petitioners filed reply immediately setting out how the import was effected and how it is permissible under the licence which was revalidated. The petitioners also sent a reminder on September 14, 1984. The Customs Authorities did not take any action thereon butt also did not clear the consignment. The petitioners thereupon preferred the present writ petition under Article 226 of the Constitution.

2. The petition was admitted on October 8, 1984 and the petitioners were permitted to clear the consignment on furnishing bank guarantee. It was made clear that the Department is at liberty to serve show cause notice and pass adjudication order. In spite of the specific direction for the last about ten years the Department has not taken any steps whatsoever.

In these circumstances Mr. Kantawala, learned Counsel for the petitioners,

submitted that the authorities of the Department was satisfied with the reply filed by the petitioners to the query memo. The respondents have not filed any return. In these circumstances, the petitioners are entitled to the relief. We are making it clear that we are not expressing any opinion on the merits of the claim raised by the petitioners.

3. Accordingly, rule is made absolute in terms of prayer(s). As the goods are already cleared, the only direction required is that the bank guarantee and the bond furnished by the petitioner to stand discharged. In the circumstances of the case, there will be no order as to costs.