(1985) 03 BOM CK 0003

In the Bombay High Court

Case No : Appeal No. 213 of 1985 in Writ Petition No. 1883 of 1984

Union of India (UOI) and Another — APPELLANT

Vs

Godrej Soaps Ltd. and Another — RESPONDENT

Date of Decision : 18-03-1985

Acts Referred:

Citation : (1990) 27 ECR 287

Hon'ble Judges : Kurdukar, J;Kania, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Kania, J.—There is no substance in this appeal. The appeal is directed against the interim relief granted by Pendse, J. by his order dated 6th September 1984. In effect, by the said order, the appellants were restrained from implementing the show cause notice dated 25th August 1984, a copy of which has been annexed as Exhibit ''F'' to the petition. The petition itself is filed in order to challenge the said show cause notice, and hence allowing the show cause notice to be implemented would render the petition infructuous. It is curious that when the petition reached hearing before Bharucha, J. on 11th December 1984, instead of proceeding with the hearing of the petition, the appellants applied for and obtained an adjournment. Needless to say, no affidavit in reply was filed uptil then nor has such an affidavit been filed till today Prima facie, the show cause notice seems to have been issued without any proper application of mind. As pointed out by Mrs. Sujata Manohar, J. in her order dated 26th June 1984 in Chamber Summons No. 359 of 1984 in Writ Petition No. 2748 of 1983 in this Court, beef tallow was allowed to be imported under Open General Licence (OGL) up to 5th June 1981, On that day, a notification was issued directing that the imports of the said item would be canalised through the State Trading Corporation. The orders passed by the Government thereafter have made it clear that the requirement of canalisation would not apply where firm contracts had been placed and letters of credit -opened before 5th June 1981. Even after 5th

June 1981, beef tallow, which had been imported otherwise than through State Trading Corporation, was allowed to be cleared on payment of fine if the licences had been issued after 5th June 1981 and without payment of such fine if the licences were of an earlier date. In view of this, prima facie the allegations in paragraph 1 of the said show cause notice seem to be of no relevance at all. The same is the position regarding the allegations made in paragraph 2 of the said show cause notice as the mere purchase, on high sea sales basis, of the beef tallow, as set out in that paragraph, cannot lead to an inference of abetment unless some more material is disclosed.

2. In view of this, allowing the appellants to implement the show cause notice would be an exercise in futility. Moreover, that would render the petition infructuous.

