



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7882 OF 2023

Karl Mayer STOLL Textilmaschinenfabrik GmbH, ... Petitioners  
through Mr. Kevin Socha & Anr.

*Versus*

Union of India, through its Secretary, Department ... Respondents  
of Revenue & Ors.

Mr. Abhishek A. Rastogi a/w. Mr. Vedang Kulkarni for the petitioners.  
Ms. Mamta Omle a/w. Ms. Neeti Punde for the respondents.

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CORAM: G. S. KULKARNI &  
JITENDRA JAIN, JJ.  
DATED: 17 July, 2023

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P.C.

1. We have heard Mr. Rastogi, learned counsel for the petitioners and Ms. Omle, learned counsel for the respondent/revenue.
2. Learned counsel for the revenue seeks time to take instructions as also she has not received a copy of the proceedings from her Department.
3. The challenge in this petition is to the six show cause notices annexed at Exhibit "A" to the petition. The contention as urged by the petitioners is that it is a foreign entity. It is contended that the petitioners have no idea of the transaction/invoice in question and that in no manner whatsoever, it was involved in the capacity as a foreign entity having exported its goods from Germany. The petitioners' contention is that the petitioners were engaged in



any conspiracy as alleged in the show cause notice is on the face of it untenable, as the role of the petitioners is stated to be only as a supplier of the machinery from Germany, and as such it could not be that the petitioners are involved in any activity as alleged.

4. The petitioners have referred to the provisions of Section 1 of the Customs Act to contend that such a show cause notice cannot be issued to the petitioners, as the Commissioner of Customs, being the authority who has issued such show cause notice, completely lacks jurisdiction, as the Act itself would not have any extra-territorial operation so as to become applicable to the foreign entity in Germany.

5. Mr. Rastogi, learned counsel for the petitioners in support of his contention has brought to our notice that in a similar case where show cause notice was issued to the petitioners by the Commissioner of Customs (NS-V), Jawaharalal Nehru Custom House, Custom Zone-II, Mumbai and to another noticee, namely, M/s. Maruti Knit Tex, the show cause notice against the petitioners was dropped by an Order-in-Original dated 30 December, 2020. It is submitted that in responding to such show cause notice, the petitioners had urged similar contentions as been urged in the present petition that the Commissioner of Customs *inter alia* did not have jurisdiction and hence there was no question of any order levying penalty being passed against the



petitioners, which was merely a foreign exporter based in Germany. It was thus urged that the petitioner being situated outside India, there was no question of any penalty being imposed or in such context the show cause notice would be valid. Mr. Rastogi would hence submit that the position in the present proceedings is not different from the proceedings in regard to the show cause notice being dropped against the petitioners vide order dated 30 December, 2020.

6. In the context of the present case, Mr. Rastogi would submit that the petitioners are required to face unwarranted litigation, when the petitioners even remotely are not involved in regard to any allegations as made in the show cause notice. He, therefore, submits that once the authority has acted without jurisdiction in issuing the show cause notice to the petitioner, this Court by applying the well settled principles of law, needs to hold that the show cause notice is void ab initio, illegal, null and void.

7. Having perused the record as also the order passed on a similar show cause notice, we are of the opinion that the authority needs to take a position whether the show cause notice in question against the petitioner on such reasons would be invalid and whether ultimately the show cause notice would attain the same fate as in the case of the show cause notice being dropped



against the petitioners by an order dated 30 December, 2020 in case of M/s.

Maruti Knit Tex.

8. Learned counsel for the respondent shall take instructions on this issue.

If the authority is of the opinion that the case of the petitioners in the present

petition are covered by the observations of the authority in the case of M/s.

Maruti Knit Tex subject matter of order dated 30 December, 2020, in that

case, further adjudication of this petition would not be called for.

9. Let copy of this order be forwarded by the learned counsel for revenue

to the concerned authority.

10. Stand over to **24 July, 2023 (H.O.B.)**.

**(JITENDRA JAIN, J.)**

**(G. S. KULKARNI, J.)**