

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.3084 OF 2019
(ACME Solar Holdings Limited vs. Union of India and others)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri A.M. Ghare, Advocate for petitioner.

CORAM : R.K. DESHPANDE AND
S.M. MODAK, JJ.

DATED : APRIL 16, 2019

Heard Shri Ghare, learned Counsel for the
petitioner.

The challenge in this petition is to the final
order dated 16/7/2018 passed by respondent no.2 under
Section 8-B of the Customs Tariff Act, 1975 determining
the safeguard duty at the rate of 25% ad valorem on the
imported goods, namely, Solar cells and modules.
Consequently, final notification issued on 30/7/2018 on
the basis of final order is also the subject matter of
challenge in this petition. The assessment has taken
place and the petitioner is liable to make payment of
total liability of Rs.4,12,00,000/- in respect of safeguard
duty in respect of two consignments.

It may be a question of appeal to challenge
the ultimate assessment, but there is no remedy as is
urged by Shri Ghare, learned Counsel appearing for the
petitioner, to challenge the final order dated 16/7/2018
passed under Section 8-B of the Customs Tariff Act, 1975

and the notification dated 30/7/2018 on the basis of which the final assessment has been done.

Our attention is invited to the petitions entertained by Andhra Pradesh High Court as well as Gujarat High Court challenging the same notification and the final order. The Gujarat High Court has passed an interim order for release of the goods upon executing bond whereas Andhra Pradesh High Court has imposed condition of deposit of 50% amount of assessment as a condition for release of the goods and execution of bond for the remaining amount.

Issue notice for final disposal of the matter, returnable on 9/7/2019.

Shri Aurangabadkar, learned Assistant Solicitor General of India waives service of notice for respondent no.1.

By way of interim order, we direct that two consignments of the solar modules imported by the petitioner, which are subject to safeguard duty, shall be released upon petitioner's depositing 50% of the amount assessed with the competent Authority and furnishing bond for the balance amount.

This order shall be subject to result of the petition.

JUDGE

JUDGE