

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

IA No. 4/2011 in WRIT PETITION (CIVIL) NO(s). 389 OF 2010

RAJINDER ARORA AND ORS

Petitioner(s)

VERSUS

UOI AND ORS

Respondent(s)

(For directions)

With I.A. No. 2/2011 in WP(Civil) No. 389/2010

Date: 18/02/2011 These applications were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s) Mr. Mukul Rohtagi, Sr.Adv.
 Mr. Nikhil Jain,Adv.

For Respondent(s) Mr. Gopal Subramanian, SG
 Mr. P.K. Dey, Adv.
 Mr. Wasim A.Qadri, Adv.
 Mr. B.K. Prasad, Adv.

UPON hearing counsel the Court made the following
O R D E R

I.A. No. 4/2011

This I.A has been filed in the Writ Petition filed by the petitioners herein with regard to the detention of certain goods which were meant for export.

On 12th January, 2011 this Court had directed release of the goods in question, upon execution of a bond to be accompanied by a Bank Guarantee for a sum of Rs.48 lakhs.

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Pursuant thereto, the petitioners approached the Customs Authorities for release of the goods on the said condition.

In response to the same, they were informed by the Customs Authorities by letter dated 21st December, 2010, that the goods could be released on the petitioners executing on a

proper stamp paper a bond for an amount of

Rs.10,83,05,489/- and it was further directed that the bond

should be accompanied by a Bank Guarantee of Rs.1,20,33,943/-. This Court modified the said condition and directed that the seized goods should be released to the petitioners upon execution of a bond for the amount, as indicated in the said letter, to be accompanied by a Bank Guarantee for a sum of Rs.48 lakhs.

It appears that despite the aforesaid direction, the Customs authorities have raised objection to the Bank Guarantee which was furnished by the petitioners and a different format was provided to the petitioners for providing the same. The same contains a condition whereby the bank was required to provide the guarantee for an indefinite period.

Aggrieved by the same, the petitioners have filed the present application for a direction upon the Customs Authorities to receive the Bank Guarantee from the petitioners, in the manner in which the same was furnished, with an undertaking to keep the same alive till the matter is disposed of.

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A second prayer has been made seeking release of the goods upon waiver of any rent, demurrage or detention charges having regard to Regulation 6(1)(i) of the Handling of Cargo in the Customs Areas Regulation, 2009.

We have heard Mr. Rohtagi, learned senior counsel in support of the application. We have also heard the learned Solicitor General with regard to the objections which have been taken on behalf of the Customs Authorities in refusing to accept the Bank Guarantee as provided by the petitioners. The learned Solicitor General submitted that the Reserve Bank of India had issued guidelines with regard to the furnishing of Bank Guarantees in which it had been mentioned that there should be an automatic clause of renewal of Bank Guarantee with the sole purpose of keeping the Bank Guarantee alive during the pendency of the lis.

The learned Solicitor General submitted that the same had been adopted by the Customs Authorities and, accordingly, the Bank Guarantee was required to be furnished in the said format.

Having heard learned counsel for the parties, we are of the view that the order which we had passed earlier directing furnishing of Bank Guarantee, may be modified to the extent that the Bank Guarantee is to be furnished by the petitioners initially for a period of one year and the same has to be kept alive till the completion of the adjudication. The bank shall issue a Bank Guarantee to

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that effect and the same is to be accepted by the Customs Authorities.

As far as the second prayer is concerned, having regard to Regulation 6(1)() of the Handling of Cargo in the Customs Areas Regulation, 2009, the goods in question shall be released in accordance with the said provision.

The application is disposed of accordingly.

I.A. No. 2/2011

As far as I.A. No. 2 is concerned, let the same be listed for consideration in the first week of March, 2011, within the first five matters.

(Anita Malhotra)
Sr.PA

(Juginder Kaur)
Court Master