



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L.) NO. 42323 OF 2025

Santa Monica Farm Produce Pvt. Ltd.

...Petitioner

Vs

Union of India & Ors.

...Respondents

Mr. Mohan Jayakar, Mr. Rishi Patodia, Mr. Atharva Gade and Mr. Gaurav Dalvi i/b. Jayakar & Partners for Petitioner.

Mr. Abhishek Mishra for Respondent Nos. 2 & 3.

Mr. J. B. Mishra with Ms. Sangeeta Yadav and Mr. Rupesh Dubey for Respondent No.4.

CORAM: G. S. KULKARNI &  
AARTI SATHE, JJ.  
DATE: 05 FEBRUARY 2026.

**Oral Order : (Per G. S. Kulkarni, J.)**

1. This petition under Article 226 of the Constitution of India is filed praying for a direction that the respondents be directed to forthwith release the goods imported by the petitioner, namely 'in-shell walnuts', stated to have been imported from the United States of America (USA), under the Bills of Entry lodged in the office of respondent no.2 on 08 December 2025, copies whereof are annexed at Exhibits E to H to the petition.

2. Briefly stated the facts are :-

It is the petitioner's case that the petitioner purchased USA-origin 'in-shell walnuts' from one Diamond Foods LLC, USA. The goods aggregated to approximately 8,000 net kilograms, which were intended for commercial sale in India. It is stated that the invoices were raised in the ordinary course of international trade and were accompanied by the requisite shipping documents.

In December 2025, the consignments were shipped from Oakland, USA, to the Jawaharlal Nehru Port, Navi Mumbai, under four Bills of Lading. The petitioner contends that the goods constitute agricultural produce and are perishable in nature, requiring timely clearance and appropriate storage conditions, to preserve their quality and commercial value. Upon arrival of the goods on 08 December 2025, the petitioner, through its duly appointed Customs House Agents, filed four Bills of Entry before respondent no.2 for home consumption, making all the statutory declarations. No discrepancy whatsoever was revealed or raised at the time of filing of the Bills of Entry.

3. On 11 December 2025, the Bills of Entry were duly assessed by the Customs Officer, and the customs duty, as assessed, was paid in full by the petitioner. At that stage, no queries, objections or conditions were imposed by the customs authorities at the time of assessment, and the goods thus became eligible for release under Section 47 of the Customs Act, 1962 (for short, "**the Act**"). On 17 December 2025, upon arrival, the goods became available for clearance. However, despite assessment and payment of duty, the imported goods were put on hold by the respondents that too without any reason and/or issuing any show cause notice or a detention memo or written order.

4. The petitioner, being aggrieved by such action on the part of the respondents, addressed an email dated 20 December 2025 to the respondents seeking immediate release of the duty-paid goods, also highlighting, that the goods were perishable in nature, having imminent chances of deterioration, as also a concern on mounting demurrage. The petitioner also raised a grievance

regarding detention charges. However, no response whatsoever was received. Despite several representations, no show cause notice under Section 124 of the Act was issued. It is in these circumstances, on 23 December 2025, the present petition was filed praying for the following reliefs:-

- “a. This Hon'ble Court be pleased to issue a Writ of Mandamus, or a Writ in the nature of Mandamus or any other appropriate Writ, Order or Direction under Article 226 of the Constitution of India, ordering the Respondents to forthwith release the goods imported by the Petitioners, being Inshell Walnuts, and covered by the Bills of Entry (Exhibits E, F, G and H) to the Petition;
- b. This Hon'ble Court be pleased to issue a Writ of Certiorari, or a Writ in the nature of Certiorari or any other appropriate Writ, Order or Direction under Article 226 of the Constitution of India calling for the records of the case involving the goods covered by the Bills of Entry (Exhibits E, F, G and H) to the Petition and after looking into the legality and propriety thereof, to set aside the communication by the Respondent No.3 dated 19 December 2025 as well as the illegal withholding of the imported goods;
- c. Pending the hearing and final disposal of the present Petition, this Hon'ble Court be pleased to pass an Order forthwith release the goods imported by the Petitioners, being Inshell Walnuts, as per the Bills of Entry (Exhibits E, F, G and H) in the Petition;
- d. For ad interim reliefs in terms of prayer Clause (c).”

5. On behalf of the petitioner an additional affidavit of Mrs. Sheetal M. Thakkar, Director of the petitioner company, dated 09 January 2026, is placed bringing on record, subsequent developments, thereby annexing copies of the Detention Memo dated 23 December 2025, panchanama dated 23 December 2025, seizure memo dated 24 December 2025 issued by respondent no.4, letter dated 24 December 2025 addressed by respondent no.4, and letter dated 29 December 2025.

6. However, what is noteworthy is the nature of the seizure as recorded in the seizure memo (Exhibit-C to the additional affidavit), wherein wholly on general

observations and alien to the petitioner's import in question were made. As rightly contended on behalf of the petitioner, such references as made in the seizure memo read thus:

"7. Offence :- An intelligence was developed by the officers of DRI, Delhi Zonal Unit that certain Importers are importing "In-shell Walnuts of US Origin" with invoices being raised from US and third countries like UAE, Canada, Indonesia etc. and evading customs duty by resorting to undervaluation. Searches were conducted at various premises of certain importers. During searches, some sales contract and parallel invoices belonging to various importers were recovered which evidenced the actual contemporary price of In-shell Walnuts originated from US is very high value depending on the grade."

7. On the basis of the aforesaid observations, the petitioner has been subjected to the seizure of the goods on the following further contents of the seizure memo :-

" Accordingly, the goods imported by M/s. Santa Monica Farm Produce Private Ltd. were put on hold for examination and it was found that the Importer M/s. Santa Monica Farm Produce Private Ltd. have imported Inshell Walnuts of US origin in the above-mentioned Bills of Entry with grade of Jumbo Large Chandler (as per the description) in their containers with declared CIF value of USD 1.54 per Kgs, which is substantially lower than the contemporary actual prices found during investigation.

In view of the above and on a reasonable belief that the M/s. Santa Monica Farm Produce Private Ltd. has resorted to gross undervaluation of "Inshell Walnut of US origin" covered under the above mentioned six bills of Entry in order to evade customs duty and in violation to Section 46(4) of the Customs Act, 1962, the goods appears to be liable for confiscation under Section 111(m) of the Customs Act, 1962 and thus the subject goods imported vide above mentioned four Bills of Entry (Table-A) are hereby seized under the provisions of Section 110 of the Customs Act, 1962 for further investigations. Therefore, it is directed not to remove, part with or otherwise deal within the said goods except with the permission/order of the Proper Officer.

Hence, by considering the parameters above, the goods imported vide above mentioned Six Bills of Entry are seized u/s. 110 of the Customs Act, 1962."

8. We note that the petition was moved on 24 December 2025 before a co-ordinate Bench of this Court i.e., prior to the Christmas Vacation of this Court,

when liberty was granted to the petitioner to move the Vacation Bench after issuing notice to the respondents. The proceedings were thereafter listed before this Court on 20 January 2026, when, on instructions, we were informed by learned counsel for respondent nos.2 and 3 that provisional release of the goods would be permitted on appropriate terms and conditions. Recording the said statement made on behalf of respondent nos.2 and 3, the proceedings were adjourned to 27 February 2026.

9. It is on such backdrop that the present proceedings are before this Court.

10. Mr. Mohan Jayakar, learned counsel for the petitioner has made elaborate submissions. We note from the record that despite sufficient time being granted to the respondents to respond to the petition, no reply affidavit has been filed on behalf of the respondents. Mr. Mishra, learned counsel for respondent no.4 has made elaborate submissions. He has also placed on record an order dated 23 January 2026 passed by the Deputy Commissioner of Customs NS-I (respondent no.2), being an order of provisional release under Section 110A of the Act. The said order reiterates similar reasons as recorded in the seizure memo, alleging undervaluation of the imported walnuts and estimating differential duty at Rs. 92,94,193.92. No specific material against the petitioner is referred in support of such conclusion. Nevertheless, the order directs provisional release of the goods subject to execution of a bond equal to the assessable value of Rs.1,97,20,800/- as also furnishing of a security deposit/bank guarantee of Rs.60,00,000/- in respect of the seized goods.

11. On the aforesaid backdrop, the limited issue which arises for consideration in the present proceedings is whether the facts and circumstances of the case justify the imposition of a bank guarantee of Rs.60,00,000/-, as imposed under the provisions of Section 110A of the Act or in the facts of the case the goods be released only on a bond.

12. We have perused the provisions of Section 110A of the Act, which read thus:-

**“110A. Provisional release of goods, documents and things seized [or bank account provisionally attached] pending adjudication**

Any goods, documents or things seized or bank account provisionally attached under section 110, may, pending the order of the adjudicating authority, be released to the owner or the bank account holder on taking a bond from him in the proper form with such security and conditions as the adjudicating authority may require.”

13. No doubt that Section 110A permits provisional release of seized goods to the owner on taking a bond from him in the proper form with such security and conditions as the adjudicating authority may require, it is however clearly a provision which recognizes the discretion of the adjudicating authority, in the facts and circumstances of the case, to pass an order granting provisional release on appropriate conditions either of a bond or such security and conditions that may be required. There cannot be a straight jacket formula as to how, in the facts and circumstances of a given case, such order would be required to be passed and/or an order which is passed in one case, would be required to be blanketly followed in another case, when the facts are different. In other words, what is paramount is that the facts of each case are required to be appropriately considered in passing an order on provisional release and the conditions which

may be attached to such order. This presupposes the existence of material facts justifying that to secure the interest of the revenue, a bank guarantee to be furnished by the importer would be necessary or in a given case merely a bond would suffice, would be a fair discretion to be exercised by the adjudicating officer. In the facts of the present case, when we consider as to whether there is any material on record for the adjudicating authority to impose a coercive condition as seen from the seizure order or any other material to justify imposing the condition of a bank guarantee, the answer appears to be in the negative.

14. We find that the facts of the present case are peculiar, inasmuch as there is no incriminating material whatsoever placed on record or even brought to the notice of the petitioner by the concerned customs officer qua the imports in question. The allegations of evasion of customs duty by resorting to undervaluation would not be applicable to the facts of the present case, as in the case before the Delhi Authorities, as referred in the seizure memo. In the present case no search was conducted at the petitioner's premises. A sweeping/general statement is foisted in the seizure order and the provisional release order, in regard to some actions taken within the jurisdiction of the DRI Delhi Zone unit on consignments of other importers of similar goods, who/which has nothing to do with the petitioner, and in no manner concerning the petitioner. There is no material to show that, similar to what had happened in the case of other importers before the Delhi Authorities, namely that in the petitioner's case, during any search, sales contracts or parallel invoices belonging to various importers being at all recovered from the petitioner or any other similar material was elicited. In the

absence of such material, either being pointed out to the petitioner in the manner known to law or placed before us, we are unable to accept a presumptive/general action being taken against the petitioner's goods. This more particularly when in the facts of the present case, the entire statutory procedure in respect of assessment of the Bills of Entry was undertaken, statutory declarations were made, and as far back as December 2025, the Bills of Entry were duly assessed by the Customs Officer, pursuant to which full customs duty was paid. As on date, there is no incriminating material whatsoever available, which would justify the impugned action of seizure/detention, more particularly after full payment of duty. Thus, the entire action of detention of the goods appeared to be arbitrary and without basis, which has eminently resulted into an order of provisional release, being already passed.

15. It would have been a completely different case, if there was substantial material to show any illegality in regard to the import in question. It is not unknown that several importers deal in similar products which may be imported from different origins. However, it cannot be a general rule that merely because some importers having alleged to have committed irregularities, every importer dealing in similar goods would be required to be painted with the same brush and their goods subjected to detention and seizure. Such approach is not only counterproductive to trade and commerce, but also adversely affects the valuable rights of Indian importers and their legitimate business interests, resulting in losses to the importers, such as the petitioner.

16. Therefore, any such actions of the Customs officers are required to be on the basis of tangible material and for the reasons which are legitimate and lawful. There is no rule of law that there can be any blanket imposition of coercive conditions in the absence of any tangible materials. Such actions would be in the realm of arbitrariness and an unwarranted clog on undertaking smooth business activities. In the present case, there is not an iota of any material whatsoever, so as to label the goods to be in any manner tainted as in the case before the Delhi Authorities as referred in the seizure memo which are the only reasons as set out in the seizure memo.

17. Mr. Mishra has placed reliance on the decision of this Court in **VKC Nuts Pvt. Ltd. vs. The Commissioner of Customs (NS-V)**<sup>1</sup> contending that the petitioner has an alternate remedy of seeking provisional release. He also relied on the decision in **Adon Agro Commodities Limited vs. Union of India & Ors.**<sup>2</sup> whereby, in the facts of the said case, provisional release was granted subject to furnishing a bank guarantee equivalent to 50% of the estimated differential duty. The facts of the said case are clearly distinct. There is no dispute with the proposition that an alternate remedy would be available to the petitioner to assail the order of provisional release of the goods insofar as the conditions imposed by the said order. However, when the facts on record concern not only statutory rights under the Customs Act but also of constitutional rights, particularly under Article 14 read with Article 300-A of the Constitution, the Court is certainly empowered to exercise jurisdiction under Article 226.

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**1** Custom Appeal No. 32 of 2019 (OS)

**2** Civil Writ Petition No. 17403 of 2025 decided on 16 January 2026

18. As a result of the aforesaid discussion, the petition deserves to be disposed of in terms of the following order:

**ORDER**

- (i) The petitioner is entitled to provisional release of the goods under order dated 23 January 2026, only on furnishing a bond as directed in the said order.
- (ii) All contentions of the respondents in regard to any further investigation and any other steps to be taken in that regard, are expressly kept open.
- (iii) The respondents shall release the goods to the petitioner within a period of three days from today.
- (iv) As there was no justification for the respondent to detain the goods, in the facts of the present case, we direct the respondents to issue a certificate of waiver of demurrage to the petitioner.

19. Disposed of in the aforesaid terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)