



\$~76

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 06th October, 2025

+ **W.P.(C) 10508/2023**

M/S PITAMBER SOLVEX PRIVATE LIMITEDPetitioner
Through: Mr. Sameer Abhyankar, Ms. Ripul
Swati and Mr. Y. Sharma, Advocates.

versus

UNION OF INDIA & ORS.Respondents
Through: Ms. Arunima Dwivedi, CGSC with
Ms. Monalisha, Ms. Himanshu Singh
and Ms. Priya Khurana, Advocates.
Ms. Anushree Narain, SSC with Mr.
Noman Chaula and Mr. Yamit Jalley,
Advocates.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, *inter alia*, seeking issuance of an appropriate writ directing the Respondents to consider the goods imported by the Petitioner in the Financial Year 2022-23 as covered under the Tariff Rate Quota (hereinafter, 'TRQ') benefit and grant refund of the collected Customs Duty to the tune of Rs. 24,03,057/- along with applicable interest.
3. The Petitioner is involved in the business of import/purchase of



imported goods, producing, processing and preservation of fruit, vegetable oils, fats etc.as also Crude Degummed Soyabean oil. The case of the Petitioner is that *vide Notification No. 30/2022-Customs* dated 24th May, 2022, an exemption was granted from whole of the Customs Duty leviable thereon on allocated TRQ which was to remain in effect till March, 2024. On 24th May, 2022, the provisions for import of Soya-bean oil under TRQ were also notified. Thereafter, a TRQ License was sought by the Petitioner which was accordingly issued *vide* TRQ License No. 0111005191 on 05th August, 2022 for Quota Quantity. Certain changes were carried out in the Notification dated 24th May, 2022, which was published on 14th June, 2022 *vide Public Notice No. 15/2015-20*. Additional provisions for allocation of TRQ were added for the Financial Years 2022-2023 and 2023-2024. On 11th January, 2023, *Public Notice No. 50/2015-20* was issued for discontinuation of TRQ for import of Crude Soya-bean Oil *w.e.f* 01st April, 2023. The said notice however, made it clear that if the bill of lading was prior to 31st March, 2023, the exemption would continue to apply.

4. According to the Petitioner, the bill of lading which is subject matter of the present case was dated 08th February, 2023. In the meantime, another public notice being *Public Notice No. 60/2015-20* dated 3rd March 2023 was issued in which earlier public notices were amended and the last date for import of Crude Soya-bean Oil under TRQ was changed to 31st March, 2023.

5. The goods of the Petitioner under the bill of lading dated 8th February, 2023 reached the port in April 2023, however, the Petitioner was not allowed the benefit of the exemption. The Petitioner made a complaint to the Central Board of Excise and Customs on 20th April, 2023. The Petitioner



then cleared the goods without TRQ benefit and paid Custom Duty under protest. The total amount paid by the Petitioner is to the tune of Rs.24,03,057/-

6. Again, on 10th May, 2023, a notification being **Notification No. 37/2023-Customs** was issued exempting Customs Duty on Crude Soya-bean Oil till 30th June, 2023. However, this notification stated that it would be coming into effect on 11th May, 2023. There was thus, a gap within which the exemption was not technically applicable which led to the filing of the present petition.

7. In the present petition, the prayers are for challenging the notifications, as also for extending the TRQ benefit to the Petitioner. The prayers are set out as under:

*“a. Issue a Writ of Certiorari/Directions of similar nature for quashing /setting aside the impugned notification being Notification No.37/2023-Customs dated 10.05.2023 and/or quash/set aside or amend Paragraph 2 of the said Notification No. 37/2023-Customs dated: 10.05.2023 the same being violative of Article 14 of the Constitution of India
And/or;*

*b. Issue a Writ of Mandamus or order or direction or any other appropriate Writ declaring the collection of Custom Clearing charges from the Petitioner by the Respondents on goods which are of Exempted Category as arbitrary, unreasonable and contrary to law and being violative of the provisions of Article 19(6) of the Constitution of India
And/or;*

c. Issue a Writ or order or direction while directing the Respondents to consider the subject goods imported in the Financial year 2022- 23 as covered under the TRQ benefit and as such refund the Collected Custom duty of Rs.



24,03,057/- (Rupees Twenty-Four Lacs Three Thousand and Fifty-Seven Only) along with Interest @ 24% pa from the date of payment till the date of Refund to the Petitioner.

And/or;

d. Issue a Writ or order or direction directing the Respondents to Consider the eligibility of the Petitioner to avail the TRQ benefit on the shipment which was imported vide Bill of Lading dated 08.02.2023 and cleared vide Bill of Entry dated 25.04.2023 in conformation to the Public Notice dated 11.01.2023 & 01.03.2023 and as declare the Collection of Customs Duty from the Petitioners by Respondent No. 3 as arbitrary, unreasonable and contrary to

law. Thereby directing the respondents to refund the Collected Custom duty of Rs. 24,03,057/- (Rupees Twenty-Four Lacs Three Thousand and Fifty-Seven Only) along with Interest @ 24% pa from the date of payment till the date of Refund to the Petitioner. And/or;

e. Issue a Writ or order or direction while directing the Respondents to the extend the benefit of TRQ vide notification No. 37/2023- Customs dated 10.05.2023 to the Petitioner on the clearance of Bill of Entry No 5665799 and refund the excess duty of Rs. 24,03,057/- (Rupees Twenty-Four Lacs Three Thousand and Fifty-Seven Only) along with Interest @24% pa from the date of payment till the date of Refund to the Petitioner which has been imposed on the Petitioner and declare it arbitrary, unreasonable and contrary to Law.”

8. In effect, the notification dated 10th May, 2023 being **Notification No. 37/2023-Customs** has been challenged on the ground of arbitrariness and prayer is for extending the TRQ benefit, as also for the refund of the excess Customs Duty paid under protest.

9. Notice was issued in this petition on 09th August, 2023 and thereafter, pleadings were being completed by the parties.



10. The counter affidavit on behalf of the Respondent has also been filed.

11. The submission on behalf of the Petitioner is that while the present petition was pending before this Court, a Co-ordinate Bench of this Court has decided this very issue in ***Ajanta Soya Ltd. v. Union of India, 2024 SCC OnLine Del 1585***. Ld. Counsel for the Petitioner relies on the said decision to pray for the same benefit being granted to the Petitioner in the present case.

12. Ms. Anushree Narain, Id. SSC for the Respondent has opposed the maintainability of the present petition on the ground of lack of territorial jurisdiction of this Court, contending that the Petitioner is situated in Jaipur and the import in question was effected through Kandla Customs, Gujarat. The mere challenge to the Notifications would not permit entertaining of the petition. Ld. SSC has placed reliance upon the decision in ***Kusum Ingots & Alloys Ltd. v. Union of India, (2004) 6 SCC 254***. Reliance is also placed upon the order of a Co-ordinate Bench of this Court in ***W.P.(C) 9371/2024*** titled '***Greenko AP01 IREP Private Limited v. Assistant Commissioner of Customs & Ors.***' dated 30th September, 2024. In the said order, the Court had dismissed the petition on the ground that the impugned letters were issued in Andhra Pradesh.

13. The Court has heard the Id. Counsels for the parties and has perused the records.

14. The proposition raised by the Respondent in ***Kusum Ingots & Alloys Ltd. (Supra)*** cannot be questioned. The Supreme Court in the said decision has held that merely because constitutionality of a provision has been challenged, it would not mean that the High Court of Delhi alone would be the seat of jurisdiction for the Union of India. The Supreme Court has



clearly laid down that even if the constitutional validity of a notification or statute is being challenged, some part of the cause of action ought to arise within the territorial jurisdiction of the said High Court.

15. The decision in ***Greenko AP01 IREP Private Limited (Supra)*** relates to two letters issued by the Commissioner of Customs (Preventive), Vijayawada dated 24th June, 2024, wherein the petition was dismissed on the ground of maintainability.

16. In the present case, the Court notices that the petition has been pending for more than two years. The challenge initially was to the notifications itself and for extension of the TRQ benefits to the bill of lading of the Petitioner. In fact, insofar as the clearance of the goods and payment of Customs Duty is concerned, the matter already was resolved because the goods were cleared with the Customs Duty being paid under protest by the Petitioner. Thus, the main prayer was in respect of the validity of the notifications which did not take into consideration the entire period from March, 2023 till June 2023 and thus, there was a gap in the said period.

17. This issue has been squarely decided by the Co-ordinate Bench of this Court in ***Ajanta Soya Ltd. (Supra)*** wherein, the Co-ordinate Bench of this Court while dealing with the two writ petitions observed as under:

“1. In W.P. (C) 5510/2023, petitioner impugns Notification No.15/2023 dated 03.03.2023. Petitioner further sought issuance of appropriate Notification for clearance of imports of Tariff Rate Quota (TRQ) consignment in line with Public Notice dated 01.03.2023.

2. In W.P. (C) 3018/2024, petitioner in addition seeks that the Notification dated 10.05.2023, issued by the Custom Authorities be made applicable retrospectively with effect



from 01.04.2023.

3. As per the petitioners, they are aggrieved by illegal imposition of Agricultural Infrastructure Development Cess (AIDC) and denial of exemption benefit under TRQ for import of crude soyabean oil.

4. As per the petitioners, the Director General of Foreign Trade issued a Public Notice dated 24.05.2022 to allocate TRQ for import of crude soyabean oil and crude sunflower seed oil during the Financial Years 2022-2023 and 2023-2024 upto 20,00,000 metric ton per year for each of these commodities.

5. Correspondingly, on the same date the Ministry of Finance, Department of Revenue issued an exemption Notification dated 24.05.202 for granting exemption from custom duty and AIDC to the goods covered under TRQ. Subsequently, by Public Notice dated 11.01.2023, the Director General of Foreign Trade decided to discontinue the TRQ for import of crude soyabean oil with effect from 01.04.2023. The Public Notice provided that Bill of Lading dated on or before 31.03.2023 shall be allowed for imports under crude soyabean oil TRQ till 30.06.2023. However, the consequential Notification No.15/2023-Customs dated 03.03.2023, issued by the Ministry of Finance, Department of Revenue did not extend the benefit to the Bills of Lading dated on or before 31.03.2023 till 30.06.2023 and restricted the same to 31.03.2023 with the result that consignments covered under the Bills of Lading which were dated on or before 31.03.2023, but were landing at the ports later, even up till 30.06.2023 were not covered under the exemption and accordingly, the AIDC and custom duty was payable on them.

6. Faced with this discrepancy, petitioners have approached this Court. We are informed that in the meantime some of the consignments which had landed after the said dates were got cleared under protest on payment of duty. Petitioners are also claiming refund of the duty paid on said



consignments.

7. Counter affidavit has been filed by the Union of India in W.P. (C) 5510/2023, wherein reference is drawn to Notification issued by the Department of Revenue dated 10.05.2023, extending the benefit under TRQ till 30.06.2023. By Public Notification dated 11.01.2023, the TRQ was discontinued with effect from 01.04.2023, however, by the Notification dated 10.05.2023, the same has been made coterminus with the Public Notice issued by the DGFT dated 11.01.2023, which extends the benefit upto 30.06.2023. Accordingly, as per the counter-affidavit, benefit under TRQ stands extended till 30.06.2023.

8. In view thereof, petitions are disposed of holding that the benefit under TRQ being extended till 30.06.2023, the imports made in terms of the extant policy where the Bills of Lading are dated on or before 31.03.2023, would be covered under the said policy if the goods had landed before 30.06.2023.

9. Consequently, the consequential relief of refund of duty if any paid by the petitioners be also granted in accordance with law, subject to petitioners making the necessary compliances in law.

18. This decision of the Co-ordinate Bench of this Court has been rendered on 4th March, 2024*i.e.*, after the filing of the present petition and is squarely applicable to the facts of the present case. The SLP being *SLP (Civil) Diary No. 54950/2024* titled '*Union of India &ors. v. Ajanta Soya Ltd. &Anr.*', against the said decision has also been dismissed by the Supreme Court on 16th December, 2024, both on the grounds of delay as also on merits. The said order dated 16th December, 2024 reads as under:

“1. There is no gross delay of 177 days in filing the



- Special Leave Petitions which has not been satisfactorily explained by the petitioners.*
2. *Even otherwise, we see no reason to interfere with the common impugned order passed by the High Court.*
 3. *The Special Leave Petitions are, accordingly, **dismissed on the ground of delay as well as merits.***
 4. *Pending applications, if any, also stand disposed of.”*

19. Accordingly, in these unique facts, this Court is of the view that relegating the Petitioner to a different High Court would, in fact, result in the entire matter being started afresh. Moreover, the legal issue stands adjudicated by the Co-ordinate Bench of this Court after filing of the present petition.

20. Initially, when the present petition was filed, the constitutional validity of the notifications had been challenged and no objection was taken by the Customs Department on the issue of maintainability of the present petition. In fact, no objection as to jurisdiction has been taken even in the counter affidavit filed by the Customs Department.

21. In these unique circumstances, this Court is of the view that the benefit of the judgment in *Ajanta Soya Ltd. (Supra)* deserves to be extended to the Petitioner. Accordingly, the exemption is granted to the Petitioner.

22. The concerned authorities shall now process the refund to the Petitioner in accordance with law within a period of three months.

23. This order would not act as a precedent as it has been passed in the unique facts of the present case.



24. The present petition is disposed of. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

OCTOBER 6, 2025/ssc/ck/hp