

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/SPECIAL CIVIL APPLICATION NO. 7116 of 2021**  
**With**  
**R/SPECIAL CIVIL APPLICATION NO. 8598 of 2021**  
**With**  
**R/SPECIAL CIVIL APPLICATION NO. 727 of 2022**  
**With**  
**R/SPECIAL CIVIL APPLICATION NO. 4799 of 2025**  
**With**  
**R/SPECIAL CIVIL APPLICATION NO. 6023 of 2025**  
**With**  
**R/SPECIAL CIVIL APPLICATION NO. 5137 of 2023**  
**With**  
**R/SPECIAL CIVIL APPLICATION NO. 5138 of 2023**  
**With**  
**R/SPECIAL CIVIL APPLICATION NO. 5139 of 2023**  
**With**  
**R/SPECIAL CIVIL APPLICATION NO. 5149 of 2023**

**FOR APPROVAL AND SIGNATURE:**

**HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL**  
**and**  
**HONOURABLE MR.JUSTICE D.N.RAY**

Approved for Reporting	Yes	No

**M/S. S. J. S. INTERNATIONAL & ANR.**  
**Versus**  
**UNION OF INDIA & ANR.**

**Appearance:**

**MR HARSHADRAY A DAVE(3461) for the Petitioner(s) No. 1,2**  
**ADVOCATE NOTICE NOT RECD BACK for the Respondent(s) No. 1**  
**MR UTKARSH R SHARMA(6157) for the Respondent(s) No. 2**

**SCA NO 4799 OF 2025**

**Mr. Ankit Shah, Advocate for the respondent No.1**  
**Mr. C.B.Gupta, Sr.Standing Counsel for the respondent No.3**

**SCA NO. 6023 OF 2025**

**Mr. Pradip D.Bhate, Advocate for the respondent No.1**  
**Mr. C.B.Gupta, Sr.Standing Counsel for the respondent No.2**

**SCA NO. 5139 OF 2023**

**Mr. C.B.Gupta, Sr.Standing Counsel for the respondent Nos. 1 & 2**

**CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE**  
**SUNITA AGARWAL**

**and****HONOURABLE MR.JUSTICE D.N.RAY****Date : 03/02/2026****COMMON ORAL JUDGMENT****(PER : HONOURABLE MR.JUSTICE D.N.RAY)**

1. Heard Mr.Harshadray A. Dave, learned advocate

appearing for the Petitioners, Mr. Ankit Shah, learned advocate appearing for the Respondent - Union of India, Mr. Utkarsh R. Sharma, learned advocate appearing for the Respondent no. 2, Mr. C. B. Gupta, learned Senior Standing Counsel appearing for the Respondent - Additional Commissioner, Customs and Mr. Pradip D.Bhate, learned Advocate appearing for the respondent No.1-Union of India in SCA No. 4799 of 2025.

2. Mr. C. B. Gupta, learned advocate appearing for the Respondent no. 2 passed on the copy of the written instructions received by him from the office of the Adjudication Section, Customs House, Mundra which is supplied in the Court. The said instructions are placed on record.

3. The brief factual matrix which is necessary to be noted for the present adjudication is as follows:-

3.1 Petitioner No. 1 is stated to be engaged in the business of export of nuts, bolts, washers, hand tools and allied products, classifiable under Chapter Headings 7318, 8205 and 3926 of the Customs Tariff Act, 1975. The goods are

exported to countries in the Gulf and Upper Gulf regions in the ordinary course of business.

3.2 According to the petitioner, on 08.01.2015, The Respondent No. 2 detained certain export consignments belonging to Petitioner No. 1, along with consignments of other exporters. The detention was purportedly effected on two grounds, namely: (i) alleged discrepancy in the declared weight of the goods; and (ii) alleged misclassification, inasmuch as the goods were declared under Tariff Heading 7318 instead of 7308, thereby treating the same as mis-declared. The petitioners contend that their exports are transacted on a per-piece basis and not on the basis of weight. A seizure memo in respect of the detained goods was issued on 20.01.2015.

3.3 For the purpose of securing provisional release of the seized consignments, certain conditions were imposed by the competent authority. The petitioners challenged such conditions before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT). The Tribunal, by its order, modified and relaxed the conditions imposed. Upon compliance with the revised stipulation, including furnishing

security equivalent to 100% of the value of the goods, the consignments were released provisionally.

3.4 It is further averred that the goods were thereafter finally assessed by the competent authority under the Act. However, the duty drawback pertaining to the said consignments was withheld. The petitioners challenged the withholding of duty drawback before this Court by filing Special Civil Application No. 13003 of 2015. By order dated 13.08.2015, this Court allowed the said petition, pursuant to which the duty drawback amount was released to the petitioners.

3.5 Subsequently, Respondent No. 2 issued a show cause notice dated 12.01.2016 proposing, inter alia, confiscation of the goods and recovery of differential duty drawback in respect of various consignments exported by the petitioners. The notice is founded on allegations of mis-declaration relating to (i) weight, (ii) classification, and (iii) value of the export goods.

4. Being aggrieved by the issuance of the aforesaid show cause notice dated 12.01.2016, the petitioners have instituted

the present petition with the following prayers:-

*“a) This Honourable Court be pleased to allow this petition;*

*b) This Honourable Court be pleased to issue a writ of mandamus or certiorari or in the nature of mandamus or certiorari or any other appropriate writ, order or direction, quashing and setting aside the notice dated 12<sup>th</sup> January 2016 and declare the same to be null and void;*

*c) Pending the admission and final disposal of the petition, this Hon'ble Court be pleased to stay the execution and implementation of the notice at Annexure A to the petition;*

*d) This Hon'ble Court be pleased to grant an ad-interim relief in terms of para (c);*

*e) To pass such other and further orders as are necessary in the interest of justice.”*

5. The present petition was thus filed for quashing and setting aside a show cause notice dated 12.01.2016 issued by the Respondent no. 2 - the Directorate of Revenue Intelligence (DRI). The principal issue was regarding mis-declaration of the goods (nut, bolts, washers, hand tools etc.) and as to whether they would fall under Chapter Heading 7318, 8205, 3926 of the Customs Tariff Act, 1975 or under Chapter Heading 7308. One of the issues upon which the matter was admitted was regarding the power of the

Respondent no. 2 (DRI) to issue the show cause notice by relying upon the decision of the Hon'ble Apex Court in the case of ***M/s. Canon India Private Limited V/s. Commissioner of Customs in Civil Appeal No. 1827 of 2018*** dated ***09.03.2021***. It was also recorded in the order dated 11.06.2021 admitting the matter that "the concerned respondent may proceed to adjudicate pursuant to the show cause notice issued in which proceedings the petitioner shall cooperate. However, concerned respondent may not pass final orders without leave of the Court."

6. Now, when the matter was listed before us, it has been pointed out by Mr. Harshadray A. Dave, learned counsel appearing on behalf of the Petitioner that the notices are of the year 2016 and admittedly there was no stay of further proceedings. Therefore, following a catena of decisions of this Court, including ***Siddhi Vinayak Syntex Pvt. Ltd. V/s. Union of India*** reported in ***[2017 (352) ELT 455 (Guj.)]*** and others, this is a fit case to quash the impugned notices.

7. It has been further pointed out by Mr. Dave that in any case, the issues stand covered by the decision of the Hon'ble Apex Court by order dated 22.09.2025 in the case of ***Union of***

***India and Anr. V/s. M/s. JBS Exports and Anr.*** passed in ***Special Leave Petition (Civil) Diary No.(s). 44987/2025.***

8. Mr. C. B. Gupta, learned counsel appearing on behalf of the Respondent has categorically submitted that he has received instruction from the Adjudication Section, Customs House, Mundra that the department has accepted the legal position in an identical matter in the case of ***M/s. JBS Exports (supra)*** pursuant to the Hon'ble Apex Court 's order dated 22.09.2025 passed in ***Special Leave Petition (Civil) Diary No.(s). 44987/2025*** and therefore, the present batch of petitions may be allowed.

9. In such view of the matter, the present petitions stand allowed. No order as to costs.

**(SUNITA AGARWAL, CJ)**

**(D.N.RAY,J)**

VARSHA DESAI