IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6043 OF 2026

Shivshakti Enterprises
A Sole proprietary concern of
Rohit Kumar Somabhai Patel,
Having its office at 13th Floor,
A/1302, Building No.5,
Bonaventure Apartment,
Rangnath Keskar Road, Dahisar (W),
Mumbai – 400 068. ...Petitioner

Versus

1. The Commissioner of Customs,
NS-1, Jawaharlal Nehru Customs
House, (JNCH), Nhava Sheva,
Uran, Dist – Raigad.

2. The Commissioner of Customs
(SIIB – Import),
Jawaharlal Nehru Customs
House, (JNCH, Nhava Sheva,
Uran, Dist. - Raigad.

3. The Dy. Commissioner of
Customs (SIIB – Import),
Jawaharlal Nehru Customs
House, (JNCH, Nhava Sheva,
Uran, Dist. - Raigad.

4. The Dy.Commissioner of
Customs (Group – I)

Jawaharlal Nehru Customs)
House, (JNCH), Nhava Sheva,)
Uran, Dist – Raigad.)
)
5. The Joint Commissioner of Customs,)
NS-1, Jawaharlal Nehru Customs)
House, (JNCH), Nhava Sheva,)
Having her office at)
Jawaharlal Nehru Customs House,)
Nhava Sheva, Taluka Uran,)
Raigad, Maharashtra – 400 707.)....Respondents

Mr. Darius Shroff, Senior Advocate a/w Mr. Jas Sanghavi, Ms. Linzy Sharan & Ms. Sakshi Doshi i/b PDS Legal for the Petitioner.

Mr. Jitendra B. Mishra a/w Mr. Ashutosh Misra, Mr. Abhishek R. Mishra for the Respondent Nos.2 and 3.

CORAM : M. S. KARNIK &
SANDESH D. PATIL JJ.
DATE : 31st AUGUST, 2026

JUDGMENT (PER SANDESH D. PATIL, J.) :

1. Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal.

2. By the present petition, the petitioner is seeking quashing of the impugned seizure memo dated 19th May, 2026 and the impugned order dated 22nd June, 2026 passed by the respondent

No.5 to the extent it seeks a security deposit / Bank guarantee of Rs.40,00,000/- from the petitioner.

3. The facts and circumstances give rise to filing of the petition are as under :

The petitioner on 28th March, 2026 imported two consignments of Roasted Arecanuts Splits (Beetle Nuts) under Bills of Entry bearing No.8347475 and 8347647. The department took examination of the imported goods and accordingly samples were drawn and sent for testing to the Food Safety and Standards Authority of India ('FSSAI' for short).

On 10th April, 2026, the FSSAI issued a NOC stating that they have no objection if the imported goods are released as the same were in conformity under Food Safety and Standards Act, 2006 ('FSS Act, 2006' for short). Inspite of the said order of NOC by the FSS Act, 2006, the goods were not released, therefore, the petitioner on 23rd April, 2026 filed the present petition.

During pendency of the present petition in this Court, the samples of the imported goods were sent to the Central Revenue Control Laboratory ('CRCL' for short) for further testing. The CRCL in its two reports, both dated 5th May, 2026 stated that the moisture content in the samples of the imported goods was 6.8% and 6.9%, respectively.

On 19th May, 2026, the respondent No.2 proceeded to seize the goods. The petitioner requested the respondents to release the imported goods, provisionally, on acceptance of bond, however, the respondent No.5 vide order dated 22nd June, 2026 permitted provisional release of imported goods upon the petitioner executing a bond and furnishing a Bank guarantee of Rs.40,00,000/-. The petitioner, therefore, amended the petition and challenged the impugned Seizure Memo dated 19th May, 2026 and the order dated 22nd June, 2026 to the extent the petitioner was directed to furnish Bank guarantee of Rs.40,00,000/-.

4. The respondent Nos.2 and 3 have filed their affidavit. It is the contention of the respondents that the declaration made by the importer regarding nature, description and tariff classification of the goods is always subject to verification, reassessment and investigation by the proper officer in accordance with the provisions of the Customs Act, 1962 and the Customs Tariff Act, 1975. It is further contended that the issuance of no objection certificate from the authorized officer under the FSSAI Act, 2006 did not conclude the issue of tariff classification under the Customs Tariff Act, 1975. It is submitted that the jurisdiction exercised by the FSSAI Authorities is confined to ensuring that imported food articles conform to the standards prescribed under the FSS Act. Since there was a bonafide dispute, the samples were referred to the CRCL, New Delhi.

5. It is contended that the goods were rightly seized and the petitioner was rightly called upon to furnish a security deposit / Bank Guarantee of Rs.40,00,000/-.

6. Learned Counsel appearing for the petitioner contended that once the goods were examined by the authorized officer under the FSSAI, there was no justification on the part of the respondents in undertaking examination through CRCL. The issue regarding release of Roasted Arecanuts upon furnishing a bond and without insisting upon any security deposit is now settled by the Judgment of this Hon'ble Court in the case of ***NBG International Private Limited v/s The Union of India and Ors.***[1] It is further contended that the Judgment in the matter of ***NBG International (supra)*** has been followed by the Calcutta High Court in the case of ***M/s Credence International V/s. Union of India & Ors.***[2], the Punjab and Haryana High Court in the case of ***M/s Prenda Creations Pvt. Ltd. Ludhiana, M/s Prenda Creations Pvt.Ltd. Ludhiana V/s. Union of India & Ors.***[3] and the Madras High Court in the case of ***M/s. Universal Impex, M/s Neena Enterprises V/s. The Commissioner of Customs & Ors.***[4].

7. Learned Counsel appearing for the respondents refuted

1 2026(3) TMI 1212
2 2026(7) TMI 1137
3 (2026(8) TMI 1298
4 2024 (11) TMI 1088

the position and made submissions which are already recorded in the affidavit as mentioned above.

8. Heard learned Counsel appearing for the parties.

9. The issue in hand is squarely covered by the Judgment in the matter of ***NBG International (supra)***. This Court has in paragraph Nos.17 and 18 observed as under :

> *"17. A Division Bench of this Court in the case of Make Index Impex Vs. Union of India and others 2023-SCC OnLine-Bom-1678, of which one of us (G.S. Kulkarni, J.) was a member, in the context of import of Soya bean, which the Respondents had contended, was harmful for human consumption, has clearly held that once a clear stand is taken by the FSSAl that the Soya bean in question was in no manner harmful for human consumption in whatever form and was in light of the requirements and parameters of FSSAI Rules, any contrary position could not be adopted by the Customs Department and the goods have to be released in the facts of the case. Relevant paragraphs of the aforesaid decision are reproduced*

below:

> *"13. Accordingly, a clear stand of the FSSAl is on record that the Soya bean sought to be cleared by the petitioner and subject matter of the present proceedings, in no manner whatever would be harmful for human consumption/health in whatever form, in the light of the requirements and parameters of the FSSAI Act, 2006 and the Rules framed thereunder, if the goods are permitted to be cleared*
>
> *14. Considering such clear position on record, we are of the opinion that the approach as now sought to be adopted by the Customs Department and more particularly in the light of the position taken by respondent no. 1-Union of India, respondent no. 8-Genetic Engineering Appraising Committee as also respondent no.10-Ministry of Environment, Forest & Climate Change and most significantly by respondent no.7-Food Safety & Standards Authority of India, we are of the opinion that the approach as suggested by Mr. Vyas, learned ASG and as noted by us above, ought to be accepted, and the proceedings, without prejudice to the rights and contentions of the parties on any of the issues, which may arise, be disposed of by the following order."*
>
> *(Emphasis supplied)*

18. Further, the Food Import Manual issued by FSSAI clearly specifies the steps to be taken insofar as laboratory analysis is concerned. It is only after this laboratory analysis is made, that a NOC is issued by the FSSAI and *then on the basis thereof, the goods can be released. The relevant procedure for laboratory analysis is reproduced below:*

> *"iv) Laboratory Analysis :*
>
> *a) The sample of the imported food product is forwarded to the notified laboratory that is auto selected randomly in the Food Import Clearance System (FISC);*
>
> *b) The samples of imported Food sent by the Officer authorized by FSSAl are analyzed by the laboratory as per parameters defined in the FSS Act and the Regulations thereunder;*
>
> *c) The laboratory shall complete the analysis and upload the test report in FICS in Form 2 of the FSS (Import) Regulations, 2017) within five days of receipt of the sample with conclusive opinion about the product tested as conforming or nonconforming.*
>
> *d) For testing of food Import consignments through a transparent and expeditious process, NABL accredited laboratories have been notified by FSSAI throughout the country. These FSSAl notified laboratories are also utilized for testing of imported food consignments by the Authorized Officers of Customs Department. FSSAI has also notified 22 Referral labs other than the Primary labs, for re-testing of appeal samples of the Importers. The list of the food testing labs is available at https://www.fssai.gov.in/cms/food-laboratories.php."*

(Emphasis supplied)

It is seen from the above procedure that insofar as laboratory analysis is concerned, the analysis and test reports are made by FSSAl within five days from the date of receipt of sample with conclusive opinion about the product tested as conforming or non-conforming. This goes on to show that the tests conducted by the FSSAl are of precise nature and high standards of testing are ensured and made applicable before clearing the food suitable for human consumption. In this view of the matter, we are of the opinion that any window for reclassification of the categorised goods, itself is not on a sound premise, in the facts and circumstance of the case."

10. Taking into consideration the law laid down by this Court in the Judgment of ***NBG International (supra)***, which squarely covers the issue involved in the present case, we are of the firm opinion that the petition deserves to be allowed. Hence, the following order :

ORDER

(i) Writ Petition No. 6043 of 2026 is allowed.

(ii) The impugned Seizure Memo dated 19th May, 2026 (annexed at Exhibit – FF to the petition) and the impugned order dated 22nd June, 2026 (annexed at Exhibit – HH to the petition) passed by the respondent No.5 to the extent it seeks a security deposit / Bank guarantee of Rs.40,00,000/- is quashed and set aside.

(iii) The respondent No.5 is directed to forthwith release the goods of the petitioner without insisting on Bank guarantee.

(iv) The petitioner should once again obtain Certificate of Fitness from the FSSAI before dealing with the goods in the open market as the same are lying with the respondents since March, 2026.

(v) No order as to costs.

11. Rule is made absolute in the above terms and the petition is accordingly disposed of.

(SANDESH D. PATIL, J.) **(M. S. KARNIK, J.)**