

5 SCOB [2015] HCD 40

**High Court Division
(Special Original Jurisdiction)**

Writ Petition No. 3690 of 2004

Coats Bangladesh Limited
..... Petitioner.

Versus

**Commissioner, Customs Bond
Commissionerate and others**
..... Respondents.

Mr. A.F. Hassan Arif with
Mr. Ashraful Hadi, Advocates
..... For the petitioner.

Ms. Israt Jahan, D.A.G. with
Mr. Shams-ud-Doha, A.A.G with
Ms. Nurun Nahar, A.A.G
.....For the Government.

Heard on 07.09.2015, 08.11.2015 and
15.11.2015.

Judgment on: 17.11.2015.

Present:

Mr. Justice Sheikh Hassan Arif

And

Mr. Justice J. N. Deb Choudhury

When a higher authority, namely the NBR, has expressed its opinion agreeing with the proposal sent by the earlier Bond Commissioner (Mr. Helal Uddin), it became very much difficult for the subsequent Bond Commissioner (Mr. Enayet) to go for any other option but to follow the proposal as was agreed upon by the NBR. This being so, this Court is of the view that, the show cause notice dated 25.05.2004 was in fact a closed-minded show cause notice. Therefore, giving reply to the such show cause notice, or attending a hearing pursuant to such show cause notice, became a mere formality for the petitioner. This view is further strengthened when we see the actions taken by the Bond Commissioner against the petitioner at the same time of issuance of the said show cause notice. When the Bond Commissioner requests other concerned authorities to suspend a license for all practical purposes, no reasonable reading can be done from such actions that the said show cause notice was in fact a closed-minded show cause notice inasmuch as that the concerned Commissioner had already decided the fate of the petitioner's license. ... (Para 19)

Judgment

Sheikh Hassan Arif, J

1. Rule was issued calling upon the respondents to show cause as to why (i) the order dated 16.05.2004 (Annexure-A) issued by respondent No.2 directing cancellation of the petitioner's Bonded Warehouse License (Annexure-C), (ii) order dated 25.05.2004 (Annexure A-1) issued by respondent No.1 directing the petitioner to show cause within 15(fifteen) days as to why its above Bonded Warehouse Licence should not be cancelled and (iii) Order dated 04.07.2004 (Annexure-A-2) issued by respondent No.1 cancelling the petitioner's Bonded Warehouse License should not be declared to be without lawful authority and are of no legal effect.

2. Background Facts:

Short facts, relevant for the disposal of the Rule, are that the petitioner, being a joint venture company and engaged in 100% deemed export oriented business, has been manufacturing sewing thread and supplying the same to different export-oriented manufacturers of this country. Being a joint venture company of Coats Limited, U.K., which is one of the largest textile groups in the world, the petitioner company was awarded the title of “Best Joint Venture Enterprise of the Year 2003” in Bangladesh. The petitioner, at the time of filing of this writ petition, had total earning of US\$175 million and was the employer of about 900 people in Bangladesh and had an investment of about Tk. 950 million. It is stated that 80% to 85% sales of the petitioner company take place in Dhaka, while its Bulk Production Unit is in Chittagong. The petitioner occupies 53% of the market share in the thread sector in Bangladesh and have been doing business as such for the last 24 years with reputation. It is stated that, there has been no such allegation against the petitioner for evasion of taxes or wrong doing. After establishment of petitioner company in Bangladesh along with its factory, the petitioner obtained a bonded warehouse licence, granted by respondent no.1, bearing license, No. 783/cus-sbw/90 dated 10.02.1990 under the address “Medona Tower” 28 Mohakhali C-A, Dhaka-1212 in view of the provisions under Section 13(1) of the Customs Act, 1969. In addition to the said bonded warehouse facilities, the petitioner had another bonded warehouse in Chittagong along with factory, and it subsequently obtained another license for boned warehouse facility in Gazipur. The bonded house at Dhaka, from the very beginning, was granted and used for effective distribution of the finished products within a shortest possible time against back to back letters of credit in Dhaka and the same was mainly utilized to warehouse goods manufactured by petitioner’s factory at Chittagong for the purpose of distribution. It is further stated that, such use of the bonded warehouse facility in Dhaka is allowed under the provisions of Section 100 of the Customs Act, 1969. Before manufacturing, the petitioner applies to the concerned bond Commissionerate for utilization permit and, accordingly, after manufacturing the finished products, most of the them are transferred to the Dhaka bonded warehouse under the cover of risk bond and under inter-bond transfer facilities in accordance with law. In doing so, the petitioner has always complied with the relevant provisions of law. After supply of those finished goods to the export oriented companies and to the ultimate purchasers in foreign countries, the petitioner has always obtained proceeds realization certificates and the same have been submitted before the concerned Commissioner.

3. That, on 09.02.2003, the petitioner filed application for renewal of its license at Dhaka, but, unfortunately, received no response in spite of reminders. That, on 13.08.2009, the then Bond Commissioner sent correspondences to the NBR suggesting cancellation of petitioner’s bonded warehouse licence at Dhaka mainly on the ground of administrative inconveniences. Thereupon, the NBR, vide letter dated 29.11.2003, made enquiry with the subsequently appointed Bond Commissioner, who, through reply dated 24.01.2004, confirmed that there was no allegation of any wrong doing or evasion of taxes against the petitioner. However, the NBR, pursuant to the earlier recommendation of the then Bond Commissioner, vide order dated 16.05.2004, directed the Commissioner of Customs (Bond) to cancel petitioner’s said licence. Pursuant to such direction, it is alleged, a show cause notice dated 25.05.2004 was issued by respondent No.1 containing mostly the same contention of administrative inconveniences. By the said show cause notice, the respondent no.1 also directed the concerned Banks not to open any back to back letters of credit in favour of the petitioner and also directed some other concerned authorities to stop some ongoing facilities in favour of the petitioner. The petitioner, accordingly, vide letter dated 08.06.2004, replied to the said show cause notice denying such contention and praying for withdrawal of the cancellation proceeding in respect of its licence. However, the respondent No.1, vide subsequent

impugned memo dated 04.07.2004, cancelled the said licence and directed the petitioner to account for its records within 10 (ten) days. Being aggrieved by such directions and cancellation, the petitioner moved this Court calling in question the said opinion of NBR dated 16.05.2004(Annexure-A), show cause notice/order dated 25.05.2004 (Annexure-A-1) and final cancellation order dated 04.07.2004 (Annexure-A-2) and, accordingly, obtained the aforesaid Rule Nisi. At the time of issuance of Rule, this Court, vide order dated 07.07.2004, stayed operation of the aforesaid impugned orders/letters initially for 03 (three) months and, subsequently, the said period of stay was extended time to time.

4. The Rule Nisi is contested by respondent no.1 by filing affidavit-in-opposition as well as supplementary affidavit-in-opposition contending, inter alia, that the bonded warehouse facilities, as enjoyed by the petitioner, was against relevant provisions of law as it was used as the distribution center, which was contrary to the provisions of law. According to the respondent No. 1, the cancellation was done upon following due process of law and in strict compliance of the provisions under Section 13 of the Customs Act, 1969 and as such this Court has got nothing to interfere into the same. It is further contended that the privilege of bonded warehouse may only be enjoyed for the joint purpose of manufacturing, keeping raw materials and finished goods. However, admittedly, the petitioners bonded warehouse having not been used for those purposes, as the same was only used as distribution center, which was causing huge conveniences and other difficulties to the respondent no.1, the same was lawful cancelled.

5. Submissions:

Mr. A.F. Hassan Arif, learned senior counsel appearing, along with Mr. Ashraful Hadi, learned advocate, for the petitioner, has taken us to the entire documents as annexed to the writ petition and to the relevant provisions of law, in particular Section 13 and the provisions under Chapter-11 of the Customs Act, 1969. At the beginning, drawing our attention to Annexure-A along with letter of the then Commissioner of Customs dated 13.08.2003 as enclosed their-with, as well as a letter dated 24.01.2004 (Annexure-F), Mr. Ariff argues that mere reading of these letters and correspondences will reveal the very intention and mindset of the respondents before taking the impugned actions against the petitioner. According to him, though Section 13 has conferred independent power on the Bond Commissioner for cancellation of licence of a licensee, the Commissioner concerned did not exercise that power independently in as much as that from the very beginning he was advised by the NBR and acted under the dictation of the NBR. Further referring to Annexure-A, which is a letter of NBR dated 16.05.2004 in response to the recommendation of the earlier Bond Commissioner, learned advocate submits that when the NBR, by this letter, has agreed to the recommendation given by the then Bond Commissioner the next Bond Commissioner did not have any option but to follow such consent of the NBR, and as such, according to him, from the very beginning, the exercise of power by the Bond Commissioner under Section 13 was not an independent exercise and as such the impugned show cause notice as well as the impugned action of cancellation were without lawful authority, the same having been initiated and issued not in strict compliance with the provisions of Section 13, in so far as the independent exercise of discretion of the Commissioner was concerned. Therefore, according to Mr. Ariff, since the very issuance of the show cause notice followed by the cancellation of licence was done under the influence of NBR, the same cannot stand in the eye of law. In this regard, learned advocate has drawn our attention to the very words used in the said show cause notice, namely that “ফর্মার মধ্যেও পদ্ধতি অনুযায়ী এইরূপ ক্ষেত্রে বন্ড সুবিধা প্রদান সমুচিত নয়, এ ব্যাপারে স্ৰাফু। জম্ববোর্ডের দিকনির্দেশনা চাওয়া হলে জাতীয় রাজস্ববোর্ড স্তর পত্রের মাধ্যমে প্রতিষ্ঠানটির বন্ড লাইসেন্সটি বাতিল করার পক্ষে অভিমত ব্যাঙ্গ করেনZ”.

(Underlined to give emphasis).

6. Learned advocate further argues that the impugned show cause notice has further addressed another issue, namely that a bonded warehouse facility should not be allowed to be used only for the purpose of sales center. Mr. Ariff then argues that since the licence in favour of the petitioner was originally issued for the purpose of using of the same as distribution center, which is evident from the licence itself, this opinion, as expressed in the said show cause notice, tantamounts to imposition of restrictions, conditions and limitations “on goods to be warehoused” in petitioner’s warehouse as provided under Clause-(b) of sub-section (2) of Section 13. Thus, according to him, in view of the provisions of sub-section (2), such restrictions can only be imposed by notification in the official gazette, which has not been done in the instant case. To substantiate his contention that respondent no.1 acted under the influence of the NBR, learned advocate refers to two decisions of Indian Supreme Court, namely **Padfield v. Minister of Agriculture (1968) AC 997 and Purtabpur Co. v. Cane Commissioner, AIR 1970 SC 1896.**

7. Learned advocate further submits that, apart from being influenced by the NBR, it is evident from the very show cause notice as well as other concerned correspondences between the Bond Commissioner and NBR that, even before issuance of the show cause notice in questions, both the NBR and respondent no.1 pre-decided the issues and as such the issuance of show cause notice as well as the opportunity of hearing to the petitioner were nothing but a mere ceremonial proceedings just to reach the conclusion already decided by the respondent no.1 and the NBR. Therefore, since the show cause notice was not issued with open-mind and, rather, it was issued with closed-mind, the same is not a show cause notice in accordance with law and as such the same was violation of the principles of natural justice. To strengthen this submission, the learned advocate has then drawn our attention to the very show cause notice dated 25.05.2004 (Annexure-A1) and has pointed out the actions taken along with the said show cause notice as mentioned at the bottom of the same under Clauses 1 to 4, 9 and 11 to 13. Mr. Ariff then submits that since the Bond Commissioner has already started taking actions along with the show cause notice against the petitioner and thereby virtually suspended the license of the petitioner even before any hearing, those actions, in clear terms, reveal the closed mindset of the respondents in that they have initiated the proceedings with closed-mind and the issuance of the show cause notice was only ceremony just to reach their pre-determined conclusion. Therefore, according to him, though the petitioner gave reply to the said show cause notice, it was already known to the petitioner that such reply was a futile reply as the decision had already been taken from the highest level, i.e. NBR, to cancel the license of the petitioner. To substantiate such submissions, learned advocate has again referred to two decisions of the Indian Supreme Court, namely **ORYX Fisheries Private Ltd. V. Union of India and others 2011 (1) AWC 849 (SC)** and **HJ Trehan Vs. Union of India (1989) 1 SCC-764.**

8. Further drawing our attention to Section 196A of the Customs Act, 1969 as well as the Bonded Warehouse Licensing Rules, 2008, as contained in SRO No. 181-BCe/2008/2209/00 dated 26.06.2008, in particular Rule 16 therein, learned advocate submits that the existence of an appellate forum as against the order of the Commissioner of Customs (Bond) came into being only in 2008 and as such, at the relevant time, namely in 2004 when the impugned actions were taken, there was no such appellate forum against the impugned actions, and as such, the petitioner in fact did not have any efficacious remedy but to come before the High Court Division under writ jurisdiction. Further referring to the relevant provisions under

Chapter 11 of the Customs Act, 1969, in particular Sections 84, 97, 98, 99, 100 and 101, learned advocate argues that nowhere in the said Chapter it has been provided that the use of bonded warehouse facilities only for distribution purpose is prohibited under the law. Therefore, when the law does not make any provisions for use of bonded warehouse facilities as distributions center, the vested right of the petitioner under the said license cannot be taken away, as has been done in the present case, without following the due process of law.

9. Opposing the Rule, Ms. Israt Jahan, learned Deputy Attorney General, appearing on behalf of respondent No. 1, though concedes that at the relevant time there was in fact no appellate forum, submits that since the impugned actions were taken upon issuing show cause notice as well as considering the reply given by the petitioner, this Court will only examine whether the due process of law was followed in cancelling the license. According to her, since the due process as provided by law has been followed in the instant case, this Court has got nothing to interfere. Learned DAG further submits that except for the petitioner company, no other company or entity in the country has ever been allowed to use bonded warehouse facilities as distribution center inasmuch as that the use of bonded warehouse facilities of the petitioner as distribution center is in clear violation of the condition No. 3 of the very license. Thus, according to her, the Bond Commissioner committed no illegality in cancelling the said license. Further drawing our attention to Annexure-A, which is an opinion expressed by the NBR, learned DAG submits that nowhere from this letter it can be inferred that the NBR had dictated the Bond Commissioner to take actions against the petitioner for cancellation of license. Rather, according to her, it shows that the opinion was initially formed by the Bond Commissioner and the NBR only agreed to such opinion and expressed its consent to take appropriate legal actions. This being so, according to her, this cannot be termed to be a dictation by the NBR, as has been argued by the learned advocate for the petitioner.

10. Deliberations of the Court

Since the issue of absence of alternative remedy of appeal at the relevant time has been frankly conceded by learned DAG and also found by this Court upon examination of relevant provisions of law, including Section 196A of the Customs Act, 1969 as well as Rule 16 of the Bonded Warehouse License Rules, 2008, we do not need to elaborate the issue of maintainability of the Writ Petition in as much as that the petitioner in fact had no alternative remedy at the relevant time but to move this Court under writ jurisdiction against the impugned actions. In view of above, we hold that the writ petition is maintainable.

11. To examine the other issues raised by the learned Advocates in this writ petition, let us first examine the very Section 13 of the Customs Act, 1969, under which the impugned actions are claimed to have been taken by the respondent No. 1.

12. At the relevant time of granting of the license in question, i.e. in 1990, Section 13 of the Customs Act was as follows:-

“13. (1) *At any warehousing station, the Collector of Customs may, from time to time, license private warehouses wherein dutiable goods may be deposited.*

(2) *Every application for a licence for a private warehouse shall be made in such form as may be prescribed by the Collector of Customs,*

(3) *Every licence granted under this section may be cancelled on conviction of the licensee of any offence under this Act relating to*

warehouses, or for infringement of any condition provided in the licence, or on the expiration of one month's notice in writing given to the licensee by the Collector of Customs.

(4) Pending consideration whether a licence be cancelled under sub-section (3), the Collector of Customs may suspend the licence.

(Underlines supplied)

13. It appears from the above quoted original provision under Section 13 at the relevant time that there was no authority like Commissioner of Customs (Bond) and it was the Collector of Customs, namely Commissioner of Customs, who had the power to issue licenses time to time for private warehouses wherein dutiable goods might be deposited. Sub-section (3) of the original Section 13 further provided that such license could be cancelled on conviction of the licensee of any offence under the said Act relating to warehouses or for infringement of any condition provided in the license etc. or on the expiration of one month notice in writing given to the licensee by the Collector of Customs. Sub-section (4) further provided that during consideration as to whether the license would be cancelled or not under sub-section (3), the license could be suspended by the Collector of Customs.

14. After substitution of the above section in 2003 vide Act No. 17 of 2003, i.e. at the time when the impugned actions were taken, Section 13 has got the following position:

“13. Licensing of private warehouses—*(1) Subject to sub-section (2), at any warehousing station, the Commissioner of Customs (Bond) or any other Commissioner of Customs authorized by the Board may licence private warehouses wherein dutiable goods imported by or on behalf of the licensee, or any other imported goods in respect of which facilities for deposit in a public warehouse are not available, may be deposited.*

(2) The Board may, from time to time, by notification in the official Gazette, impose conditions, limitations or restrictions-

- (a) on granting licence for private warehouse;*
- (b) on goods to be warehoused; and*
- (c) on import entitlement of the warehouse.*

(3) The Commissioner of Customs (Bond) or any other Commissioner of Customs authorized by the Board may suspend or cancel a licence granted under sub-section (1)-

(a) If the licensee contravenes any provision of this Act or the rules made thereunder or commits breach of any of the conditions of the licence; or

(b) in the case where, he deems fit, a licence to be suspended or cancelled in the public interest;

Provided that in case of cancellation of any licence, the licensee shall be served with a show cause notice of thirty days and shall be given a reasonable opportunity of being heard.

(Underlines supplied)

15. It appears from the above provisions at the relevant time i.e. when the impugned actions were taken, the Commissioner of Customs (Bond) had already come into being and he was given the power to suspend or cancel a license granted under sub-section (1) for contravention of any provision of the said Act or Rule by the licensee or for commission of

breach of any conditions of license or if it was deemed by the Bond Commissioner that suspension or cancellation of license was in public interests. Further, a proviso was inserted therein in the meantime mandating a show cause notice of 30 days upon the licensee and to allow him reasonable opportunity of being heard in case of cancellation of licence.

16. Upon close scrutiny of the above provisions under Section 13, it appears that the Bond Commissioner may impose two types of distinct actions, namely 'suspension' or 'cancellation' of the license. Therefore, the initial position of suspension of license by the Collector of Customs pending consideration of cancellation of the license has been removed by the amendment, and the position after such amendment is that a license may be suspended or cancelled by the Bond Commissioner. However, in view of the proviso to sub-section (3) of Section 13, only in case of cancellation of license a show cause notice of 30 days was required to be issued followed by reasonable opportunity of hearing. No such procedural requirement of hearing or show cause notice is provided in respect of action of suspension. However, considering these aspects, this Court, in **Badar Box Industries Ltd. vs. Commissioner of Customs, reported in 19 BLC (2014)-411**, has already held that 'suspension' as occurring is sub-section (2) of Section 13 is itself an independent action or punishment and as such, under the amended dispensation of Section 13, no such suspension order can be issued pending consideration of the final cancellation of the license or pending hearing leading to the final cancellation of license. In the said case (one of us was the author judge), this Court also held that though the statute did not specifically provide for issuance of show cause notice and hearing for issuing suspension order, the requirement of show cause notice followed by reasonable opportunity of being heard had to be read therein. We do not find any reason to depart from that position of law in so far as the facts and circumstances of the present Case are concerned.

17. In line with the above legal position, if we examine the show cause notice in the present case as well as the correspondences between the NBR and the concerned Bond Commissioner, it will be evident that when the show cause notice (though titled as 'order' (A₁-cn) dated 25.05.2004) was issued asking the petitioner to show cause as to why it's license should not be cancelled, the concerned Bond Commissioner took some other drastic actions against the petitioner, as evident from Clauses-1-4, 9 and 11-13 at the bottom of the said show cause notice. By those clauses, the Bond Commissioner in fact stopped the release of petitioner's goods under the bonded Warehouse facilities, asked the BGMEA not to issue any UD and asked some lien banks not to open back to back letters of credit in favour of the petitioner. Mere reading of those clauses along with the show cause notice will reasonably reveal that the Bond Commissioner in fact suspended the license of the petitioner pending hearing on the show cause notice. As observed above and decided by this Court in the case referred to above, such suspension of license on the face of it is without lawful authority firstly on the ground that at the relevant time Section 13 did not empower the Bond Commissioner to suspend the license of a licensee pending hearing on the show cause notice leading to the final cancellation of the license, the secondly, since this Court has already held that 'suspension' in Section 13 is itself a punishment and as such prior show cause notice followed by hearing is required to impose such punishment, the show cause notice itself is not a show cause notice in view of the provisions under Section 13 of the Customs Act, 1969. Though the Rule Nisi in this Writ Petition succeeds merely on this point, this Court will examine some other arguments as raised by the parties.

18. To examine the other issue that the Bond Commissioner was in fact dictated by the NBR or that the show cause notice in question was a closed minded show cause notice, we

have gone through the said letter of the NBR dated 16.05.2004 (Annexure-A) along with the recommendation/suggestion of the then Bond Commissioner, as enclosed therewith, and earlier correspondences between NBR and the concerned Commissioner of Customs dated 14.01.2004 (Annexure-F) and 29.12.2003 (Annexure-3 to the supplementary affidavit-in-opposition of respondent No. 1). It appears from those correspondences that, pursuant to the recommendation sent by the earlier Bond Commissioner (Mr. Helal Uddin Ahmed) on 13.08.2003, the NBR, through its Second Secretary, made some enquiry from the concerned Bond Commissioner. However, in the meantime, a new Bond Commissioner (Mr. Md. Enayet Hossain) took over, and in response to such queries, he, vide letter dated 24.01.2004, informed NBR that he did not find any wrong doings or that there was no allegation of evasion of Tax against the petitioner company. Thereafter, NBR expressed its opinion vide letter dated 16.05.2004 and communicated it to the new Commissioner (Mr. Enayet) informing him that the Board had agreed with the opinion of the earlier Bond Commissioner. Referring to these two-three letters, Mr. Ariff has vigorously argued that when the NBR vide letter dated 16.05.2004 expressed its agreement with the opinion of the earlier Commissioner to cancel licence, the new Commissioner, though he was favourable to the petitioner as there was no allegations against the petitioner for tax evasion, had no option but to follow the said opinion as expressed by the earlier Commissioner and agreed upon by the NBR. Therefore, according to him, issuance of show cause order or notice in question pursuant to such agreement of the NBR was a mere formality as the decision to cancel licence had already been taken. This Court finds this argument very forceful in as much as that the show cause notice itself clearly reveals the fact that the NBR has already agreed to such actions of cancellation of license.

19. When a higher authority, namely the NBR, has expressed its opinion agreeing with the proposal sent by the earlier Bond Commissioner (Mr. Helal Uddin), it became very much difficult for the subsequent Bond Commissioner (Mr. Enayet) to go for any other option but to follow the proposal as was agreed upon by the NBR. This being so, this Court is of the view that, the show cause notice dated 25.05.2004 was in fact a closed-minded show cause notice. Therefore, giving reply to the such show cause notice, or attending a hearing pursuant to such show cause notice, became a mere formality for the petitioner. This view is further strengthened when we see the actions taken by the Bond Commissioner against the petitioner at the same time of issuance of the said show cause notice. When the Bond Commissioner requests other concerned authorities to suspend a license for all practical purposes, no reasonable reading can be done from such actions that the said show cause notice was in fact a closed-minded show cause notice inasmuch as that the concerned Commissioner had already decided the fate of the petitioner's license. Therefore, we are unable to agree with the submissions of the learned Deputy Attorney General that due process of law has been followed before taking the impugned action of cancellation of the licence. If this show cause notice dated 25.05.2004 is read along with the previous correspondences between the NBR and the concerned two Bond Commissioners of the same station, as exchanged behind the back of the petitioner, we find no option but to conclude that this show cause notice is not a show cause notice in the eye of law and as such the impugned actions pursuant to the said show cause notice cannot stand.

20. Now, the contention in the show cause notice that the petitioner should not be allowed to use the bonded warehouse facilities as a sale center. According to Mr. Ariff, such restrictions can only be imposed by the NBR in view of the provisions under sub-section (2) of Section 13 by gazette notification. It is true that one of the reasons for cancellation of the license, as contemplated by the then Bond Commissioner and the NBR, was that the

petitioner was using the facilities as a sale center. But, it appears that, there were some other reasons, one being the administrative inconvenience of the respondent No. 1 in dealing with such licensees. Had it been the case of the respondents that a licensee should not be allowed to use the bonded warehouse facilities only for sale center, they NBR could impose such conditions on the petitioner by notification in the official gazette. When NBR has been given the power by the law to impose restrictions/conditions on the goods to be warehoused in view of the provisions under Clause (b) of sub-section (2) of the Section 13, we also do not find any reason as to why the Bond Commissioner as well as the NBR opted for cancellation of the license as a whole given the obvious fact that the very license was issued in 1991 for the purpose of keeping the finished goods. It is evident from the license, as annexed to the writ petition, that the respondents deliberately granted such license in favour of the petitioner for keeping finished goods inasmuch as that the said license even did not mention the areas for factory and the areas meant for keeping raw materials etc. Therefore, we are of the view that, the NBR was very much competent to impose restrictions on the petitioner to keep raw materials and/or to keep spaces for factory in the bonded warehouse facilities by way of gazette notification. However, they opted for illegal cancellation.

21. Regard being had to the facts and circumstances of the case and discussions herein above, we find merit in the Rule and as such the same should be made absolute.

22. In the result, the Rule is made absolute. Accordingly, (i) the order dated 16.05.2004 (Annexure-A) issued by respondent No.2 directing cancellation of the petitioner's Bonded Warehouse License (Annexure-C), (ii) order dated 25.05.2004 (Annexure A-1) issued by respondent No.1 directing the petitioner to show cause within 15(fifteen) days as to why its above Bonded Warehouse Licence should not be cancelled and ((iii) Order dated 04.07.2004 (Annexure-A-2) issued by respondent No.1 cancelling the petitioner's Bonded Warehouse Licence are hereby declared to be without lawful authority and are of no legal effect.

23. Communicate this.