

**SUPREME COURT OF INDIA**

Board of Trustees Port of Mumbai

Vs.

Transworld Shipping Service (I)

(S Sen and K Thomas JJ.)

17.10.1997

**ORDER**

1. Leave granted.

2. The interim order of the Bombay High Court in these cases are set aside. The containers are lying in the port area for a very long time. In some cases, it has been stated that the containers are lying for as many as four years. It has further been stated that the consignees are untraceable. They are not showing any interest in clearance of the goods. The customs authorities have also not taken any step in this matter. It has further been stated that port authorities are suffering because the port area is being occupied by these containers indefinitely.

3. In the interest of justice, we direct that the goods may be sold by the port authority by public auction or by private treaty if better price is fetched by that method. If the goods are sold, purchasers must clear the goods within a fortnight of completion of the sale. If the purchasers do not clear the goods within the period of a fortnight after sale, the Port authority will be entitled to dispose of the goods as it thinks fit.

4. So far as ground rent charges for the containers are concerned, Respondent 1 has stated that his

account has already been debited in the sum of Rs. 40,54,707 on or about 3-10-1996. Respondent 1 will be at liberty to remove the containers after the goods have been destuffed on payment of outstanding amount of ground rent. The payment should be made by depositing the amount due in the Bombay High Court. The money must be kept in deposit in a nationalised bank so that the amount can earn interest. The High Court will decide the controversy on merits. An important question has been raised by Mr Diwan that there is no liability on the client's part to pay ground rent because the containers are being detained due to non-performance of the statutory duty of the customs authority and also the Port Trust. All these questions must be finally decided by the High Court. Since the Customs have not taken any action in the matter so far, the customs authority will not try to stop the sale of the imported goods by the Port Trust on any ground. Liberty to apply to the Bombay High Court for any further orders which may be needed for working out this order.

5. The appeals are disposed of.