

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9050 OF 2021

Mohandas Wadhumal Kataria

....Petitioner

V/s.

Union of India & Anr

...Respondents

WITH
WRIT PETITION NO.9051 OF 2021
WITH
WRIT PETITION NO.9052 OF 2021
WITH
WRIT PETITION NO.9053 OF 2021

Ms Priyanka Lokhande i/b Mr. Prashant Mishra for Petitioners in all petitions.

Ms Sangeeta Yadav for Respondents in all petitions.

CORAM : K.R. SHRIRAM &
A.S. DOCTOR, JJ
DATED : 11th NOVEMBER 2022

P.C. :

1 Petitioner is impugning in this petition a show cause notice dated 15th October 2020 issued by respondent no.2 under Section 124 of the Customs Act 1962. According to Ms Lokhande, respondent no.2 is not “the proper officer” under Section 28 of the Customs Act 1962 and, therefore, respondent no.2 could not even have issued the show cause notice. Ms Lokhande relies upon the judgment of the Apex Court in the matter of *Canon India Pvt Ltd. Vs. Commissioner of Customs*¹. Ms Yadav states that there is a review petition filed in the Apex Court, which is still pending.

2 In our view, petitioner should file a reply to the show cause notice and

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take all grounds in the reply to the show cause notice and respondent no.2 should consider the defence raised by petitioner in the reply to the show cause notice.

3 We do not wish to exercise our jurisdiction under Section 226 of the Constitution of India. Reply to be filed within four weeks from today. Respondent no.2, before he passes any order, shall give a personal hearing to petitioner and notice of personal hearing shall be communicated atleast 7 working days in advance.

4 Ms Lokhande states that a personal hearing is now fixed on 22nd November 2022. The personal hearing to be fixed after petitioner files reply as per the directions given above.

5 We clarify that we have not made any observations on the merits of the case.

6 Petition dismissed.

(A. S. DOCTOR, J.)

(K.R. SHRIRAM, J.)