IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9687 OF 2023

Sansar Texturisers Private Limited And Anr. .. Petitioners
v/s.
Union of India And Anr. .. Respondents

....

Mr. Naresh Jain, a/w. Ms. Neha Anchlia and Mr. Rajneesh Jaiswal, for the Petitioners.

....

CORAM: G.S. KULKARNI & JITENDRA JAIN, JJ.

DATE : 21st AUGUST, 2023

P.C:-

We have heard learned Counsel for the Petitioners.

2. This petition has been filed praying for the following reliefs:

"(a) that this Hon'ble Court be pleased to issue a writ of Certiorari or a writ in the nature of Certiorari or any other appropriate writ under Article 226 of the Constitution of India, calling for records pertaining to the impugned notice u/s 28 read with Section 124 dated 03.01.2017 issued by the Respondent No.2 and after going into the validity and legality thereof to set-aside the same.

(b) that this Hon'ble Court be pleased to issue a writ of Certiorari or a writ in the nature of Certiorari or any other appropriate writ under Article 226 of the Constitution of India, calling for records pertaining to the impugned Order-in-Original dated 29.04.2020 as well as the corrigendum to the Order-in-Original dated 02.07.2020 issued by the Respondent No.3 and after going into the validity and legality thereof to set-aside the same.

(c) that pending the hearing and final disposal of this petition the Respondents, their successors in office, subordinates, servants and agents be restrained by an order and injunction of this Hon'ble Court be pleased to stay the execution, operation and implementation and from taking any steps pursuant to the impugned notice u/s 28 read with Section 124 dated 03.01.2017 issued by the Respondent No.2."

3. The primary contention of the Petitioners is that the show cause notice itself is illegal in view of the decision of the Supreme Court in **M/s. Canon India Private Limited vs. Commissioner of Customs**[1].

4. Our attention is also drawn to an order dated 25th July 2023 passed by this Court. However, the Petitioners would fairly concede that against the Order-In-Original dated 29th April 2020, passed by the Commissioner of Customs, NS-III/JNCH, the Petitioners have already preferred an appeal before the Customs Excise

1 2021 (376) ELT 3 (SC)

& Service Tax Appellate Tribunal ("CESTAT"). The appeal is pending and, at such stage, the Petitioners have approached this Court for various reliefs.

5. In the facts and circumstances of the case, we are of the opinion that the Petitioners can effectively raise such contentions before the Tribunal as also make a prayer for appropriate interim reliefs, including relief for stay, relying on our orders passed in Writ Petition No.1929 of 2023, along with other connected matters.

6. All contentions of the parties in the pending proceedings are expressly kept open.

7. Petition disposed of. No costs.

(JITENDRA JAIN, J.) **(G.S. KULKARNI, J.)**