

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8257 OF 2023

S.S. Enterprises Through its Proprietor
Mr. Ritesh S. Malik ...Petitioner

Versus

Union of India Through Deputy
Commissioner of Customs & Ors. ...Respondents

....

Mr. Pratik Karande a/w Mr. Aditya Talpade for the Petitioner.

Mr. Rahul Sarda a/w Mr. M. P. Sharma for the Respondents.

**CORAM : G. S. KULKARNI,
JITENDRA JAIN, J.J.**

DATE : 28th AUGUST, 2023.

P.C.:

1. After the petition was heard for some time, we are of the clear opinion that the contentions as raised by the petitioner cannot be adjudicated in the proceedings under Article 226 of the Constitution of India. The proper remedy for the Petitioner would be to file a civil suit in respect of monetary the claim which is being made by the Petitioner, which is in the nature of damages. In so far as, the contention of the Petitioner in the context of the Handling of Cargo in Customs Areas Regulations, 2009 is concerned, it is always open to the Petitioner to make a representation to the concerned authorities, to take an appropriate view under the

regulations. We permit the Petitioner to make a representation to that effect as may be permissible in law, and if the same is made it shall be given due consideration by the Respondents. All contentions of the parties are expressly kept open.

3. Petition is disposed of in above terms. No costs.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]