

TRUPTI
SADANAND
BAMNE

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.421 OF 2023

Blue Impex

... Petitioner

vs.

Office of the Commissioner of Customs
(Export), DBK (XOS) Section & Anr.

... Respondents

.....

Mr.Rajendra Shahasane for the Petitioner.

Mr.Karan Adik with Mr.Dhananjay Deshmukh for the
Respondents.

.....

**CORAM : NITIN JAMDAR &
ABHAY AHUJA, JJ.**

DATE : 28 FEBRUARY 2023

P.C. :-

Heard the learned Counsel for the parties.

2. The Petitioner has filed this petition challenging the Order-in-Original dated 27 March 2018 passed by the Asstt. Commissioner of Customs, DBK (XOS), ACC, Mumbai.

3. This petition is filed on 15 September 2022. The Respondents have raised a preliminary objection that the Petitioner has a remedy of filing an appeal. The first question

would arise as to the delay between the date of the order dated 27 March 2018 and filing of the petition on 15 September 2022. The Petitioner has sought to plea that the Petitioner came to know for the first time in January 2022 through the Tax Recovery Cell (TRC),XOS of Respondent No.1 wherein it was informed that a show cause notice for recovery of Rs. 98,08,584/- was issued. The proceedings between the Tax Recovery Cell (TRC),XOS of Respondent No.1 and the Petitioner is not on record. It is only a statement of the Petitioner that he came to know in January 2022. Thereafter, it appears that on 3 January 2022, the Petitioner has requested Respondent No.1 to provide a copy of the show cause notice and Order-in-Original. Respondent No.1 by its letter dated 30 July 2022 has provided a copy of the Order-in-Original, however, a copy of the show cause notice has not provided. Thereafter, as copy of the show cause notice has not provided, again on 8 August 2022, the Petitioner has requested Respondent No.1 to provide the same and Respondent No.1 has provided the same on the same day. Respondent No.1 while issuing these documents made a specific noting that this may not be used for legal purposes as original has already been issued. Making a grievance that this curtailed the Petitioner's right to appeal against the Order-in-Original, the Petitioner has approached this Court.

4. In these circumstances and the fact that a remedy of appeal is available to the Petitioner, according to us, appropriate course of action would be that to direct the Respondents to give an authenticated copy of the Order-in-Original to the Petitioner within two weeks from today and thereafter leaving it open to the Petitioner to avail of the appellate remedy. The date of supplying authenticated copy of the Order-in-Original to the Petitioner as sought for by the Petitioner would be treated as starting period for limitation for filing an appeal. It is open to the Petitioner to take such contention that may be available in law.

5. The writ petition is accordingly disposed of.

ABHAY AHUJA, J.

NITIN JAMDAR, J.