

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION
WRIT PETITION NO.5071 OF 2024

M/s. Anmol Plast
& Others

... Petitioners

Versus

Union of India & Others

... Respondents

Mr. Priyadarshi Manish with Ms. Anjali Jha Manish and Ms. Deepa Panicker, for the Petitioners.

Mr. Jitendra B. Mishra with Ms. Sangeeta Yadav and Mr. Umesh Gupta, for the Respondents.

CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.
DATED: 8th APRIL, 2024

P.C.

The challenge in this Petition is to an Order dated 28th September, 2023. The challenge is raised on several grounds. Primary ground being that the impugned order is in the teeth of the law as laid down by the Supreme Court in the case of *M/s. Canon India Pvt. Ltd. v/s. Commissioner of Customs*¹.

2 Mr. Priyadarshi Manish, the learned Counsel for the Petitioner, has drawn our attention to an Order dated 21st December, 2023 passed by a Coordinate bench of this Court in Writ Petition No.15876 of 2023 in the case of Titan Sea & Air Private Limited & Ant. v/s. The Commissioner of Customs & Others, wherein, taking into consideration a similar issue and the proceedings being covered by the decision of the Supreme Court in the case of Canon India Pvt. Ltd. (supra), the Court had admitted the Petition with appropriate interim order. Our attention is also drawn to an Order passed by a Division Bench of this Court in Writ Petition No.12045 of 2023, along with Writ Petition (L) No.17660 of 2023, in the case of

1 AIR 2021 SC 1699

Feroz Kasam Penwala v/s. The Union of India & Others in which, in similar circumstances, the Court considered the law as declared by the Supreme Court in the case of Canon India Pvt. Ltd. (supra) and several other orders passed on similar issues, and admitted the Petition and granted interim relief.

3 It is not in dispute that the issue involved in the present Petition would also stand covered by the decision of the Supreme Court in the case of Canon India Pvt. Ltd., (supra) which is the subject matter of pending review proceedings in the Supreme Court. It is enough to say that proceedings are pending in the Supreme Court.

4 We are inclined to pass similar orders in the present proceedings as passed by the Division Bench of this Court in the cases as noted herein above. Accordingly, following Order is passed:

- (a) Rule.
- (b) Respondents waive service.
- (c) As and by way of ad-interim relief, we stay the impugned order, with liberty to the Respondents to make an application for vacating of the said order in the event the Respondents are of the opinion that the same ought not to be continued and/or after the decision of the Supreme Court in the pending Review/ Writ Petition in the case of Canon India Pvt. Ltd., (supra).
- (d) All contentions of the parties are expressly kept open.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)