

Vidya Amin

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

WRIT PETITION NO. 3426 OF 2022

Elegant Forwarders Pvt. Ltd. & Anr. ... Petitioners

vs.

Union of India & Anr. ... Respondents

Mr. Arun Jain for the petitioners.

Ms. Sangeeta Yadav for the respondents.

CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.
DATED: 1 April, 2024

P.C.

1. We have heard learned counsel for the petitioners.
2. This petition under Article 226 of the Constitution of India 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, order or direction under Article 226 of the Constitution of India calling for the records of the case of the petitioner and after going into the validity and legality thereof quash and set aside the Order-in-Original bearing CAO No. CC/RK/09/2021-22Adj(X)ACC dated 30.03.2022 (Exhibit “A”) passed by the respondent no. 2, to the extent it is concerning the petitioners.

b) that pending the hearing and final disposal of this petition, this Hon’ble Court by an interim order or injunction be pleased to stay the operation of the Order-in-Original bearing CAO No. CC/RK/09/2021-22Adj(X)ACC dated 30.03.2022 (Exhibit “A”) passed by the respondent no. 2, to the extent it is concerning the petitioners.”

3. We find that in entertaining a challenge of the petitioners to the Order-in-Original on the contentions urged in this petition would need appreciation

of evidence. It may not possible for us to exercise jurisdiction under Article 226 of the Constitution to re-appreciate the evidence and come to a different finding. The petitioners have an appellate remedy under the provisions of Section 128 of the Customs Act to assail the impugned Order-in-Original.

4. We, accordingly, dispose of the petition with liberty to the petitioner to espouse alternate remedy as permissible in law. All contentions are expressly kept open.

5. As the petitioners were pursuing this petition bonafide, we are of the opinion that if an appeal is filed by the petitioners within four weeks from today, let the same be considered by the Appellate Forum without an objection as to limitation.

6. Disposed of in the above terms. No costs.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI , J.)