

Avtar Singh Bedi vs Principal Commissioner Of Customs ... on 12 March, 2025

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

\$~33 to 53, 59 to 62, 64 to 74, 76 to 103
* IN THE HIGH COURT OF DELHI AT NEW DELHI

33

+

CUSAA 272/2018 & CM APPL. 42126/2018
AVTAR SINGH BEDI

Through: Appearance not given.

versus

PRINCIPAL COMMISSIONER OF CUSTOMS (IMPORTS)
& ORS.

Through: Mr. Himanshu Pathak, A

Mr. Satish Aggarwala,

Counsel with Mr Gagan

DRI.

Mr. Harpreet Singh, S

with Ms. Suhani Mathu

Advs.

34

+

W.P.(C) 12553/2018 and CM APPL. 4873
PARESH K DAFTARY

Through: Appearance not given.

versus

ADDITIONAL DIRECTOR GENERAL

Through: Appearance not given.

35

+

W.P.(C) 13006/2018 and CM APPL. 5045
PARESH K DAFTARY

Through: Appearance not given.

versus

ADDITIONAL DIRECTOR GENERAL

Through: Appearance not given.

36

+

W.P.(C) 13010/2018 and CM APPL. 5048
PARESH K. DAFTARY

Through: Appearance not given.

versus

ADDITIONAL DIRECTOR GENERAL

Through: Appearance not given.

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by s
The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:57

37

+ W.P.(C) 1051/2020 & CM APPL. 3480/20
PARESH K. DAFTARY
Through: Appearance not given.
versus
ADDITIONAL DIRECTOR GENERAL (ADJUDICATION)
NEW DELHI AND ANR.
Through: Appearance not given.

38

+ CUSAA 81/2019 & CM APPL. 7106/2019
SUSHIL SHARMA
Through: Mr. Bharat Bhushan, Ms.
Mr. Anunay M. Advocat
versus
COMMISSIONER OF CUSTOMS [EXPORT]
Through: Appearance not given.

39

+ CUSAA 83/2019 & CM APPL. 7737/2019
SHEKHAR
Through: Mr. Bharat Bhushan, Ms.
Mr. Anunay M. Advocat
versus
COMMISSIONER OF CUSTOMS [EXPORT]
Through: Appearance not given.

40

+ CUSAA 232/2019 & CM APPL. 54926/201
COMMISSIONER OF CUSTOMS
Through: Appearance not given.
versus
SH. GIRISH KUMAR MISHRA
Through: Appearance not given.

41

+ W.P.(C) 4214/2019
M/S FASHION TRADERS & ORS.
Through: Mr. Abhishek Yadav, Ad
versus
DIRECTOR GENERAL, DIRECTORATE
INTELLIGENCE (HQ.) & ORS.

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by s
The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:57

Through:

42

+ W.P.(C) 5529/2019 and CM APPL. 242
M/S. FASHION TRADERS & ORS.

Through: Mr. Abhishek Yadav,
versus

DIRECTOR GENERAL, DIRECTORATE
INTELLIGENCE (HQ.) & ORS. ..

Through: Mr. Aditya Singla, S
Suresh Nair, Ms. M
Advocates.

43

+

W.P.(C) 13527/2019 and CM APPL. 5478
APPL. 19362/2020

TARA INTERNATIONAL

Through: Appearance not given.
versus

DIRECTORATE OF REVENUE INTELLIGENCE (DRI)
GOVERNMENT OF INDIA AND ORS.

Through: Mr. Aditya Singla, SSC
Suresh Nair, Ms. Med
Advocates.

44

+

CUSAA 4/2021 & CM APPL. 5519/2021
COMMISSIONER OF CUSTOMS, INLAND CONTAINER
DEPOT (EXPORT) TUGHLAKABAD, DELHI A

Through: Appearance not given.
versus

M/S ROYAL CONNEXIONS PVT LTD

Through: Appearance not given.

45

+

CUSAA 15/2021 & CM APPL. 10496/
COMMISSIONER OF CUSTOMS, INLAND CONTAINER
DEPOT (EXPORT) TUGHLAKABAD, DELHI A

Through: Mr. Bharat Bhushan, Ms
Mr. Anunay M. Advocate

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by s
The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:57

versus

SUDHIR GULATI

Through:

46

+

W.P.(C) 8779/2021 & CM APPL. 27
SUDHIR GULATI

Through: Mr. Bharat Bhushan, Ms
Mr. Anunay M. Advoca

versus

COMMISSIONER OF CUSTOMS, ICD (EXPORT) &

Through: Appearance not given.

47

+

CUSAA 16/2021

COMMISSIONER OF CUSTOMS, (IMPORT AND GENERAL DUTY)
NEW DELHI

Through: Mr. Anurag Ojha, SSC,
Singh, Advocate.

versus

ALLIANCE STRATEGIES LTD.

Through: Mr. Kamaljeet Singh, Advocate.

48

+

CUSAA 25/2021

COMMISSIONER OF CUSTOMS, NEW DELHI (IMPORT AND
GENERAL)

Through: Mr. Anurag Ojha, SSC,
Singh, Advocate.

versus

M/S ALLIANCE STRATEGIES LTD

Through: Mr. Kamaljeet Singh, Advocate.

49

+

CUSAA 38/2021 & CM APPL. 33913/2021

PRINCIPAL COMMISSIONER OF CUSTOMS (IMPORT AND
GENERAL)

Through: Appearance not given.
versus

SHRI AJAY KAPUR PROPRIETOR OF M/S CHEMICALS

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code.

The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58

CONNECTION & ORS.

Through: Mr. Rajeev Kumar, Advocate.

50

+

CUSAA 39/2021 & CM APPL. 33968/2021

PRINCIPAL COMMISSIONER OF CUSTOMS (IMPORT AND
GENERAL)

Through: Appearance not given.
versus

MS AISHWARYA OVERSEAS & ORS.

Through: Mr. Rajeev Kumar, Advocate.

51

+

CUSAA 40/2021 & CM APPL. 33974/2021

PRINCIPAL COMMISSIONER OF CUSTOMS (IMPORT AND
GENERAL)

Through: Appearance not given.
versus

SH. MANISH SINGHAL & ORS.

Through: Mr. Rajeev Kumar, Advocate.

52

+

CUSAA 41/2021 & CM APPL. 34002/2021

PRINCIPAL COMMISSIONER OF CUSTOMS (IMPORT AND
GENERAL)

Through: Appearance not given.
versus
SHRI AJAY KAPUR & ORS.
Through: Mr. Rajeev Kumar, Adv.

53
+

CUSAA 42/2021 & CM APPL. 34130/2021
PRINCIPAL COMMISSIONER OF CUSTOM IMPORT

Through: Appearance not given.
versus
MS SHUBHAM CHEMICALS SOLVENTS LTD & ORS.

59
+

Through: Mr. Rajeev Kumar, Adv.
W.P.(C) 4046/2021 and CM AP

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by s
The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58

M/S NEKTAR THERAPEUTICS INDIA PVT LTD &

Through: Appearance not given.
versus
UNION OF INDIA & ORS.
Through: Mr. Amit Tiwari, CGSC
Tanwar and Ms. Ayushi
Advocates for UOI.
Mr. Harpreet Singh, S
with Ms. Suhani Mathu
Advs.

60
+

W.P.(C) 4490/2021
M/S MICRO WELD ENGINEERINGS
Through: Appearance not given.
versus
THE PRINCIPAL ADDITIONAL DIRECTOR GENERA

Through: Mr. Harpreet Singh, Sr
with Ms. Suhani Math
Advs.
Mr. Aditya Singla, S
Suresh Nair, Ms. Med
Advocates.

61
+

W.P.(C) 5025/2021 and CM APPL. 1539
RAJIV SHEWARAMANI
Through: Mr. Chinmaya Seth, Mr
Varun Phore, Mr. Pa

versus
COMMISSIONER OF CUSTOMS (IMPORT) & ANR.

Through: Appearance not given.

62

+

W.P.(C) 5161/2021
RAJIV SHEWARAMANI
Through: Mr. Chinmaya Seth, Mr.

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by s

The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58

versus
COMMISSIONER OF CUSTOMS (IMPORT) AND ANR

.....

Through: Appearance not given.

64

+

W.P.(C) 6299/2021 & CM APPL. 19913/
APPL. 35019/2022, CM APPL. 35020/20
M/S HQ LAMPS MANUFACTURING CO. PVT LTD

Through: Mr. Naveen Malhotra a
Malhotra, Advs.

versus
ADDITIONAL DIRECTOR GENERAL DRI & ANR

Through: Appearance not given.

65

+

W.P.(C) 6302/2021 and CM APPL. 1986
M/S BIMAL PAPERS PVT. LTD., THROUGH ITS
SH. RAHUL JAIN

Through: Appearance not given.

versus
UNION OF INDIA THROUGH THE
GOVERNMENT OF INDIA, MINISTRY OF FINANCE
DEPARTMENT OF REVENUE & ORS.

Through: Appearance not given.

66

+

W.P.(C) 6402/2021 and CM APPL. 20096
LALIT KUMAR BABU LAL TATER

Through: Appearance not given.

versus
UNION OF INDIA & ANR.

Through: Ms. Manisha Agrawal Na
Mr. Nipun Jain, Advo
Mr. Harpreet Singh,
with Ms. Suhani Math
Advs

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by s

The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58

67

+

W.P.(C) 6455/2021 and CM APPL. 20256
MONIT TRADING PVT. LTD.

Through: Appearance not given.

versus

DIRECTORATE OF REVENUE INTELLIGENCE & AN

Through: Mr. Harpreet Singh, Sr

with Ms. Suhani Math

Advs

Mr. Bharat Bhushan,

Mr. Anunay M. Advoca

68

+

W.P.(C) 6534/2021
M/S MAHALAXMI JEWEL EXPOR
PROPRIETOR SH. PREM SAGAR ARORA)

Through: Appearance not given.

versus

UNION OF INDIA & ANR.

Through: Mr. Harpreet Singh, Sr

with Ms. Suhani Mat

Advs

69

+

W.P.(C) 7155/2021 and CM APPL. 22596
LALIT KUMAR BABU LA TATER

Through: Appearance not given.

versus

UNION OF INDIA REPESENTED BY MINISTRY OF
FINANACE & ORS.

Through: Mr. Harpreet Singh, Sr

with Ms. Suhani Math

Advs

70

+

W.P.(C) 7581/2021 & CM APPL. 23720/
SATISH CHEMCIAL INDIA PRIVATE LIMITED

Through: Appearance not given.

versus

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by s

The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58

DIRECTORATE OF REVENUE INTELLIGENCE & A

Through: Mr. Harpreet Singh, Sr.
with Ms. Suhani Mathur
Advs .
Mr. Bharat Bhushan, Ms.
Mr. Anunay M. Advocates

71

+

W.P.(C) 7711/2021 & CM APPL. 24048/2
CM APPL. 35005/2022

RAMESH WADHERA

Through: Mr. Naveen Malhotra and
Malhotra, Advs.

versus

ADDITIONAL DIRECTOR DIRECTORATE OF REVENUE
INTELLIGENCE & ANR.

Through: Mr. Harpreet Singh, Sr.
with Ms. Suhani Mathur
Advs

72

+

W.P.(C) 8067/2021 & CM APPL. 25110/2
SINOTEX CHANGSHU INDIA PVT. LTD. & ANR..

Through: Mr. Bharat Bhushan, Ms.
Mr. Anunay M. Advocates

versus

DIRECTORATE OF REVENUE INTELLIGENCE & ANR.

Through: Appearance not given.

73

+

W.P.(C) 8251/2021

SANDEEP SHARMA

Through: Mr. Naveen Malhotra and
Malhotra, Advs.

versus

DIRECTOR GENERAL DIRECTORATE OF REVENUE
INTELLIGENCE MINISTRY OF FINANCE & ANR.

Through: Mr. Aditya Singla, SSC

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by s

The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58

74

+

W.P.(C) 8750/2021 & CM APPL. 27261/2
M/S YUKTI EXPORTS

Through: Appearance not given.

versus

UNION OF INDIA & ORS.

Through: Mr. Vijay Joshi and M

Advs. for R-1 & 4.
Mr. Harpreet Singh,
with Ms. Suhani Mat
Advs

76
+ W.P.(C) 9161/2021 & CM APPL. 28542/2
RAM NIWAS YADAV
Through: Mr. Bharat Bhushan, Ms
Mr. Anunay M. Advoca
versus
DIRECTORATE OF REVENUE INTELLIGENCE & AN

Through: Appearance not given.

77
+ W.P.(C) 10359/2021
PACIFFIC SPIRITS PVT. LTD
Through: Mr. Krishna Pratap Si
Kumari & Mr. Aakash
versus
UNION OF INDIA & ORS.

Through: Appearance not given.

78
+ W.P.(C) 10780/2021 & CM APPL. 33258/
SANAT PRINTERS
Through: Mr. Bharat Bhushan, Ms
Mr. Anunay M. Advoca
versus
DIRECTORATE OF REVENUE INTELLIGENCE.....
Through: Appearance

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by s
The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58

79
+ W.P.(C) 11056/2021 & CM APPL. 34107/
APPL. 8234/2023
SANAT SETH
Through: Mr. Bharat Bhushan, Ms
Mr. Anunay M. Advoca
versus
DIRECTORATE OF REVENUE INTELLIGENCE

....

Through: Appearance not given.

80
+ W.P.(C) 11426/2021 & CM APPL. 35162/
SGM PAPER PRODUCTS
Through: Mr. Bharat Bhushan, Ms
Mr. Anunay M. Advoca
versus
DIRECTORATE OF REVENUE INTELLIGENCE

Through: Appearance not given.

81
+
W.P.(C) 11559/2021 & CM APPL. 35661
CM APPL. 34886/2022
SANDEEP PAWAR
Through: Mr. Naveen Malhotra a
Malhotra, Advs.
versus
JOINT DIRECTOR GENERAL AND ANR
Through: Mr. Aditya Singla, SS
Suresh Nair, Ms. Me
Advocates

82
+
W.P.(C) 11629/2021 & CM APPL. 35940
CM APPL. 28948/2022
NITIN GUPTA
Through: Appearance not given.
versus
UNION OF INDIA & ORS.

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by s
The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58

Through:

83
+
W.P.(C) 11721/2021 & CM APP
M/S. RANI ENTERPRISES
Through: Mr. Priyadarshi Manis
Manish and Mr. Paras
versus
PRINCIPAL COMMISSIONER OF C
PATPARGANJ & ORS.
Through: Mr. Aditya Singla, SS
Suresh Nair, Ms. Medh
Advocates
Mr. Gibran Naushad, S
Counsel with Mr. Hars
Advocates.

84
+
W.P.(C) 12119/2021 & CM APPL. 37840/
COLORPLAST SYSTEMS PRIVATE LIMITED
Through: Mr. Bharat Bhushan, Ms
Mr. Anunay M. Advoca
versus
DIRECTORATE OF REVENUE INTELLIGENCE
Through: Mr. Satish Kumar, Sr.
with Ms. Vaishali Go

85

+ W.P.(C) 13402/2021 & CM APPL. 42249/
SHAIL SINGHAL
Through: Mr. Naveen Malhotra and
Malhotra, Advs.
versus
ADDITIONAL DIRECTOR DIRECTORATE OF REVENUE
INTELLIGENCE & ANR.
Through: Mr. Aditya Singla, SSC
Suresh Nair, Ms. Med
Advocates
Mr. Vikrant N. Goyal
Shivani, Advs. for U

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by s
The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58

86

+ W.P.(C) 14392/2021
M/S MAHALAXMI JEWEL EXPORTS & ORS
Through: Appearance not given.
versus
UNION OF INDIA & ORS.
Through: Mr. Harpreet Singh, Sr
with Mr. Jatin Kuma
Revenue Department

87

+ W.P.(C) 14915/2021
NEW ERA TRADING PVT LTD
Through: Appearance not given.
versus
THE DIRECTOR DIRECTORATE
INTELLIGENCE ANR
Through: Mr. Harpreet Singh, Sr
with Ms. Suhani Mat
Advs
Mr. Aditya Singla,
Suresh Nair, Ms. Me
Advocates

88

+ CUSAA 81/2022 & CM APPL. 30315/2022
PRINCIPAL COMMISSIONER OF CUSTOMS (PREVE
Through: Mr. Bharat Bhushan, M
Mr. Anunay Mishra, A
versus
AJIT SINGH
Through: Appearance not given.

89

+ CUSAA 82/2022 and CM APPL. 30316/20
PRINCIPAL COMMISSIONER

Through: Appearance not given.
versus

M/S VENUS INDUSTRIES

Through: Mr. Rohit Oberoi, Advo

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by s

The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58

90

+ CUSAA 83/2022 and CM APPL. 30487/202
PRINCIPAL COMMISSIONER

Through: Appearance not given.
versus

ARUN KUMAR AGARWAL

Through: Mr. Rohit Oberoi, Advo

91

+ CUSAA 84/2022 and CM APPL. 33652/20
COMMISSIONER OF CUSTOMS (IMPORT)

Through: Appearance not given.
versus

M/S AJANTA OVERSEAS

Through: Mr. Harpreet Singh, Sr
with Ms. Suhani Math
Advs.

92

+ CUSAA 87/2022 and CM APPL. 33851/20
CM APPL. 33853/2022
COMMISSIONER OF CUSTOMS (IMPORT)

Through: Appearance not given
versus

M/S N. V. DISTILLERIES AND BREWERIES PVT

Through: Mr. Harpreet Singh,
with Ms. Suhani Mat
Advs.

93

+ CUSAA 152/2022 and CM APPL. 42987/20
COMMISSIONER OF CUSTOMS (IMPORT), ICD, T
DELHI

Through: Appearance not given.
versus

ASHOK SINGHLA

Through: Mr. Harpreet Singh, Sr
with Ms. Suhani Mathu
Advs.

94

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by s

The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58

+ W.P.(C) 337/2022 & CM APPL. 947/202
SANDEEP SHARMA

Through: Mr. Naveen Malhotra an
Malhotra, Advs.

versus

DIRECTOR GENERAL DIRECTORATE OF REVENUE
INTELLIGENCE AND ORS.

Through: Mr. Harpreet Singh, Sr
with Mr. Jatin Kuma
Revenue Department
Mr. Aditya Singla,
Suresh Nair, Ms.Me
Advocates

95

+ W.P.(C) 446/2022 & CM APPL. 124
MS SUPER PLASTRONICS PVT LTD

Through: Mr. Naveen Malhotra an
Malhotra, Advs.

versus

ADD DIRECTOR GENERAL DIRECTORATE OF REVE
INTELLIGENCE AND ANR

Through: Mr. Aditya Singla, SSC
Suresh Nair, Ms. Med
Advocates

96

+ W.
RAJESH VERMA

Through: Mr. Prashant Srivastav
versus

UNION OF INDIA & ORS.

Through: Mr. Vijay Joshi, Adv.

97

+ W.P.(C) 1290/2022

MANISH GAHLAUT

Through: Mr. Rahul Raheja, Advoc
versus

DIRECTORATE OF REVENUE INTELLIGENCE

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by s

The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58

Through:

98

+ W.

PANKAJ

Through:
versus

DIRECTORATE OF REVENUE INTELLIGENCE

Through: Mr. Aditya Singla, SSC
Suresh Nair, Ms. Medha
Advocates

99

+

W.P.(C) 2069/2022 & CM APPL. 5955/20

HARBHAJAN SINGH

Through: Ms. Praveena Gautam, M
and Ms. Tissy Annie

versus

DIRECTORATE OF REVENUE INTELLIGENCE & AN

Through: Mr. Satish Aggarwala,
Counsel with Mr Gaga
Customs.
Mr. Aditya Singla, S
Suresh Nair, Ms. Med
Advocates

100

+

W.P.(C) 3185/2022 & CM APPL. 9263/2

MS. CHAN KAI LI

Through: Appearance not given.
versus

SH. SUMIT KUMAR ., INTELLIGENCE OFFICER ,
ANR

Through: Mr. Satish Aggarwala,
Counsel with Mr Gag
DRI

101

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by s

The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58

+

W.P.(C) 4121/2022 & CM APPL. 12286

SHRI AJAY SAINI

Through: Appearance not given.
versus

INTELLIGENCE OFFICER DRI HEADQUARTERS &

Through: Appearance not given.

102

+

W.P.(C) 4453/2022 & CM APPL. 13290/

ANIL SAINI

Through: Appearance not given.
versus

INTELLIGENCE OFFICER, DRI (HEADQUARTERS)

Through: Appearance not given.

103

+

RAMBHAJ

W.

Through:

versus

UNION OF INDIA & ORS.

Through: Mr. Aditya Singla, SSC
Suresh Nair, Ms. Medh
Advocates

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

ORDER

% 12.03.2025

1. This hearing has been done through hybrid mode.

2. This writ petition is part of a batch of petitions that were filed under Article 226 of the Constitution of India, praying for a direction to quash refund proceedings initiated by the Directorate of Revenue Intelligence ('DRI') officials against the Petitioner/s on the ground that DRI officials This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58 lack jurisdiction under Section 28 of the Customs Act, 1962 . Reliance was primarily placed on the Supreme Court decision in Canon India Pvt. Ltd. v. Commissioner of Customs, 2021 (3) DWI 384 (hereinafter 'Canon-I'), which had held that DRI Officials were not 'proper officers' for the purpose of refund proceedings under Section 28. The operative portion of the Canon- I (Supra) reads as under:

"14. It is well known that when a statute directs that the things be done in a certain way, it must be done in that way alone. As in this case, when the statute directs that "the proper officer" can determine duty not levied/not paid, it does not mean any proper officer but that proper officer alone. We find it completely impermissible to allow an officer, who has not passed the original order of assessment, to re-open the assessment on the grounds that the duty was not paid/not levied, by the original officer who had decided to clear the goods and who was competent and authorised to make the assessment. The nature of the power conferred by Section 28 (4) to recover duties which have escaped assessment is in the nature of an administrative review of an act. The section must therefore construed as conferring the power of such review on the same officer or his successor or any other officer who has been assigned the function of assessment. In other yards., an officer who did the assessment, could only

undertake re assessment [which is involved in Section 28 (4)].

15. It is obvious that the re-assessment and recovery of duties i.e. contemplated by Section 28(4) is by the same authority and not by any superior authority such as Appellate or Revisional Authority. It is, therefore, clear to us that the Additional Director General of DRI was not "the" proper officer to exercise the power under Section 28(4) and the initiation of the recovery proceedings in the This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58 present case is without any jurisdiction and liable to be set aside."

3. However, vide order dated 25th September, 2025, the predecessor bench of this Court had adjourned this batch of matters sine die upon being informed that the Respondent/Department had preferred a review petition against the decision in Canon-I vide Review Petition (Civil) No. 400/2021 titled 'Commissioner of Customs v. M/s Canon India Private Limited'.

4. Today, the Court is informed that said review petition has been finally decided by the Supreme Court vide its judgment dated 7th November, 2024 and the operative portion reads as under:

"168. In view of the aforesaid discussion, we conclude that:

(i) DRI officers came to be appointed as the officers of customs vide Notification No. 19/90-Cus (N.T.) dated 26.04.1990 issued by the Department of Revenue, Ministry of Finance, Government of India.

This notification later came to be superseded by Notification No. 17/2002 dated 07.03.2002 issued by the Department of Revenue, Ministry of Finance, Government of India, to account for administrative changes.

(ii) The petition seeking review of the decision in Canon India (supra) is allowed for the following reasons:

a. Circular No. 4/99-Cus dated 15.02.1999 issued by the Central Board of Excise & Customs, New Delhi which empowered the officers of DRI to issue show cause notices under Section 28 of the Act, 1962 as well as Notification No. 44/2011 dated 06.07.2011 which assigned the functions of the proper officer for the purposes of Sections 17 and 28 of the Act, 1962 respectively to the officers of DRI were not brought to the notice of this Court during the proceedings in This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58 Canon India (supra). In other words, the judgment in Canon India (supra) was rendered without looking into the circular and the notification referred to above thereby seriously affecting the correctness of the same.

b. The decision in Canon India (supra) failed to consider the statutory scheme of Sections 2(34) and 5 of the Act, 1962 respectively. As a result, the decision erroneously recorded the finding that since DRI officers were not entrusted with the functions of a proper officer for the purposes of Section 28 in accordance with Section 6, they did not possess the jurisdiction to issue show cause notices for the recovery of duty under Section 28 of the Act, 1962. c. The reliance placed in Canon India (supra) on the decision in Sayed Ali (supra) is misplaced for two reasons - first, Sayed Ali (supra) dealt with the case of officers of customs (Preventive), who, on the date of the decision in Sayed Ali (supra) were not empowered to issue show cause notices under Section 28 of the Act, 1962 unlike the officers of DRI; and secondly, the decision in Sayed Ali (supra) took into consideration Section 17 of the Act, 1962 as it stood prior to its amendment by the Finance Act, 2011.

However, the assessment orders, in respect of which the show cause notices under challenge in Canon India (supra) were issued, were passed under Section 17 of the Act, 1962 as amended by the Finance Act, 2011.

(iii) This Court in Canon India (supra) based its judgment on two grounds:

(1) the show cause notices issued by the DRI officers were invalid for want of jurisdiction; and (2) the show cause notices were issued after the expiry of the prescribed limitation period. In the present judgment, we have only considered and reviewed the decision in Canon India (supra) to the extent that it pertains to the first ground, that is, the jurisdiction of the DRI officers to issue show cause notices under Section 28.

We clarify that the observations made by this Court in Canon India (supra) on the aspect of limitation have This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58 neither been considered nor reviewed by way of this decision. Thus, this decision will not disturb the findings of this Court in Canon India (supra) insofar as the issue of limitation is concerned.

(iv) The Delhi High Court in Mangali Impex (supra) observed that Section 28(11) could not be said to have cured the defect pointed out in Sayed Ali (supra) as the possibility of chaos and confusion would continue to subsist despite the introduction of the said section with retrospective effect. In

view of this, the High Court declined to give retrospective operation to Section 28(11) for the period prior to 08.04.2011 by harmoniously construing it with Explanation 2 to Section 28 of the Act, 1962. We are of the considered view that the decision in Mangali Impex (supra) failed to take into account the policy being followed by the Customs department since 1999 which provides for the exclusion of jurisdiction of all other proper officers once a show cause notice by a particular proper officer is issued. It could be said that this policy provides a sufficient safeguard against the apprehension of the issuance of multiple show cause notices to the same assessee under Section 28 of the Act, 1962. Further, the High Court could not have applied the doctrine of harmonious construction to harmonise Section 28(11) with Explanation 2 because Section 28(11) and Explanation 2 operate in two distinct fields and no inherent contradiction can be said to exist between the two. Therefore, we set aside the decision in Mangali Impex (supra) and approve the view taken by the High Court of Bombay in the case of Sunil Gupta (supra).

(v) Section 97 of the Finance Act, 2022 which, inter- alia, retrospectively validated all show cause notices issued under Section 28 of the Act, nor is it manifestly arbitrary disproportionate and overbroad, for the reasons recorded in the foregoing parts of this judgment. We clarify that the findings in respect of the vires of the Finance Act, 2022 is confined only to the questions raised in the petition seeking review of the This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58 judgment in Canon India (supra). The challenge to the Finance Act, 2022 on grounds other than those dealt with herein, if any, are kept open.

(vi) Subject to the observations made in this judgment, the officers of Directorate of Revenue Intelligence, Commissionerates of Customs (Preventive), Directorate General of Central Excise Intelligence and Commissionerates of Central Excise and other similarly situated officers are proper officers for the purposes of Section 28 and are competent to issue show cause notice thereunder. Therefore, any challenge made to the maintainability of such show cause notices issued by this particular class of officers, on the ground of want of jurisdiction for not being the proper officer, which remain pending before various forums, shall now be dealt with in the following manner:

- a. Where the show cause notices issued under Section 28 of the Act, 1962 have been challenged before the High Courts directly by way of a writ petition, the respective High Court shall dispose of such 1962 cannot be said to be unconstitutional. It cannot be said that Section 97 fails to cure the defect pointed out in Canon India (supra) writ petitions in accordance with the observations made in this judgment and restore such notices for adjudication by the proper officer under Section 28.
- b. Where the writ petitions have been disposed of by the respective High Court and appeals have been preferred against such orders which are pending before this Court, they shall be disposed of in accordance with this decision and the show cause notices impugned therein shall be restored for adjudication by the proper officer under Section 28.
- c. Where the orders-in-original passed by the adjudicating authority

under Section 28 have been challenged before the High Courts on the ground of maintainability due to lack of jurisdiction of the proper officer to issue show cause notices, the respective High Court shall grant eight weeks' time to the respective assessee to prefer appropriate appeal This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58 before the Customs Excise and Service Tax Appellate Tribunal (CESTAT).

d. Where the writ petitions have been disposed of by the High Court and appeal have been preferred against them which are pending before this Court, they shall be disposed of in accordance with this decision and this Court shall grant eight weeks' time to the respective assessee to prefer appropriate appeals before the CESTAT.

e. Where the orders of CESTAT have been challenged before this Court or the respective High Court on the ground of maintainability due to lack of jurisdiction of the proper officer to issue show cause notices, this Court or the respective High Court shall dispose of such appeals or writ petitions in accordance with the ruling in this judgment and restore such notices to the CESTAT for hearing the matter on merits.

f. Where appeals against the orders-in-original involving issues pertaining to the jurisdiction of the proper officer to issue show cause notices under Section 28 are pending before the CESTAT, they shall now be decided in accordance with the observations made in this decision."

5. A common issue raised in all these writ petitions, including the present one, pertains to the jurisdiction of the DRI officials to issue show cause notices or pass adjudication orders. However there are various other issues that have been raised in some matters, which are not common across all petitions. Accordingly, in each of these matters, the Court will have to determine whether they are liable to be disposed of in light of the Supreme Court's decision in Canon - II (Supra) or if any outstanding issues remain to be adjudicated.

6. Accordingly, the Court proceeds to consider each of the matters.

7. Let the ld. Counsels for the parties place before the Court the This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58 respective charts explaining their position in terms of the decision of Canon-II (Supra) .

8. List on 08th April, 2025 at 02:30 PM.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

MARCH 12, 2025/dj/nd/ck (Corrected and released on 21st March, 2025) This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 22/03/2025 at 00:24:58