

# M/S Mahalaxmi Jewel Exports (Through ... vs Union Of India & Anr. on 8 April, 2025

**Author: Prathiba M. Singh**

**Bench: Prathiba M. Singh**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 8th April

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W.P.(C) 6534/2021

M/S MAHALAXMI JEWEL EXPORTS (THROUGH  
PROPRIETOR SH. PREM SAGAR ARORA)

.....Petition

Through: Dr. G K Sarkar, Ms. Malabika Sarkar  
and Mr. Prashant Srivastava,  
Advocates.

versus

UNION OF INDIA & ANR.

.....Respond

Through: Mr. Harpreet Singh, Senior Standin  
Counsel with Ms. Suhani Mathur,  
Jai Ahuja and Mr. Akshay Saxena,  
Advocate.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner- M/s Mahalaxmi Jewel Exports under Article 226 of the Constitution of India seeking issuance of appropriate directions to quash the proceedings initiated by Respondent No. 2- Principal Additional Director General, Directorate of Revenue Intelligence, Delhi vide Show Cause Notice issued under DRI F.No. DRI/HQ-GI/338/VI/ENQ-12/INT-NIL/2016/1697 dated 30th December, 2020.

3. The main issue raised by the Petitioner in the present petition is with respect to the jurisdiction of DRI officials. However, the said issue now stands decided in Review Petition (Civil) No. 400/2021 titled 'Commissioner of Customs v. M/s Canon India Private Limited', ('Canon-II').

4. In Canon-II, the following findings have been rendered by the Supreme Court:

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

[...]

(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 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 before the Customs Excise and Service Tax Appellate Tribunal (CESTAT).

d. Where the writ petitions have been disposed of by the High Court and appeals 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. As per the above decision, DRI officials have now been held to be 'proper officers'. In addition that, it is also submitted that the adjudication order has been passed in pursuance to the Show Cause Notice impugned herein, as per the Petitioner's knowledge. However, as per the Petitioner a copy of the same has not been served upon them.
6. Let the copy of the adjudication order be served upon the Petitioner within two weeks. The matter would now be covered in terms of para 168(vi) of the Canon-II judgment.
7. Upon service of the adjudication order, the Petitioner may file an appeal before the Customs Excise & Service Tax Appellate Tribunal (CESTAT) within eight weeks.
8. The limitation period shall not run from the date of the adjudication order. Instead, the period of eight weeks shall run from the date when the adjudication order is supplied to the Petitioner.
9. Let Id. Counsel for the Respondent obtain the adjudication order and supply it to the Id. Counsel for the Petitioner within two weeks.
10. The petition is disposed of in view of the above. Pending application(s), if any, also stand disposed of.

PRATHIBA M. SINGH JUDGE RAJNEESH KUMAR GUPTA JUDGE APRIL 8, 2025/nd/ss