

# M/S Bimal Papers Pvt. Ltd., Through Its ... vs Union Of India Through The Secretary, ... 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:

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W.P.(C) 6302/2021 & CM APPL. 19865/2021

M/S BIMAL PAPERS PVT. LTD., THROUGH ITS DIRECTOR SH.

RAHUL JAIN

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Through: Mr. Akhil Krishan Maggu, Mr. Vik

Sareen, Mr. Ayush Mittal, Ms.

Maninder Kaur, Ms. Oshin Maggu

Ms. Yashika Kaushik, Advocates.

versus

UNION OF INDIA THROUGH THE SECRETARY,

GOVERNMENT OF INDIA, MINISTRY OF FINANCE,

DEPARTMENT OF REVENUE & ORS.

.....Responde

Through: Mr. Harpreet Singh, Senior Stand

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 under Article 226 and 227 of the Constitution of India seeking issuance of appropriate directions for quashing the Show Cause Notice dated 5th January, 2018 issued vide F. No. DRI/HQ-CI/50D/ENQ-9(INT-NIL)/2016 (hereinafter, SCN) by Respondent No. 3- Joint Director, Directorate of Revenue Intelligence.

3. The present petition was filed on the ground that the SCN has been issued without jurisdiction and DRI officials are not proper officers empowered to issue such SCN and for further adjudication under Section 28 of the Customs Act, 1962. Reliance was primarily placed upon the Supreme Court decision in Canon India Pvt. Ltd. v. Commissioner of Customs, 2021 (18) SCC 563 (hereinafter 'Canon-I'), which had held that DRI Officials are not 'proper officers'.

4. 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').

5. 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."

6. In view thereof, the proceedings in the SCN have to continue. Ld. Counsel for the Petitioner submits that he had already filed the reply to the SCN. If any further submissions are to be filed, let them be filed within four weeks before the Adjudicating Authority.

7. The Adjudicating Authority shall then proceed in accordance with law. The Petitioner's plea in respect of the proceedings emanating from the SCN being barred by limitation, same may be raised and shall accordingly be considered by the Adjudicating Authority.

8. The petition is disposed of. Pending application(s), if any, also stand disposed of.

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