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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of decision: 11 July 2023**

+ W.P.(C) 122/2023, CM APPL. 464/2023
GAUTAM SPINNERS Petitioner
versus
COMMISSIONER OF CUSTOMS (IMPORT), NEW DELHI
& ANR. Respondents

16
+ W.P.(C) 2979/2023, CM APPL. 11638/2023(Stay)
PDG WOOL TRADERS Petitioner
versus
COMMISSIONER OF CUSTOMS (IMPORTS), NEW DELHI
AND ANOTHER Respondents

17
+ W.P.(C) 3002/2023, CM APPL. 11723/2023(Stay)
S M TRADING CO Petitioner
versus
COMMISSIONER OF CUSTOMS & ANR. Respondents

18
+ W.P.(C) 3003/2023, CM APPL. 11726/2023(Stay)
EASTMAN INTERNATIONAL Petitioner
versus
COMMISSIONER OF CUSTOMS & ANR. Respondents

Through: Mr. Rajesh Rawal and Mr. Naveen
Bindal, Advs. for petitioners.
Mr. Harpreet Singh, SC with Ms.
Suhani Mathur and Mr. Jatin Gaur,
Advs. for respondents.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE DHARMESH SHARMA

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YASHWANT VARMA, J. (ORAL)

1. These four writ petitions raise an identical challenge to various show cause notices issued under Section 28(4) of the **Customs Act, 1962**¹. The notices are challenged primarily on the ground that since the period for completion of proceedings as prescribed in Section 28(9) of the Act has expired, the authorities would retain no jurisdiction to adjudicate upon the same. Since the issues raised are common in all the four writ petitions, we propose to notice the essential facts as they obtain in Gautam Spinners only.

2. As would be evident from the record, a **Show Cause Notice**² dated 05 August 2021 came to be issued against the said petitioner in respect of five Bills of Entries. The aforesaid action appears to have been initiated in the backdrop of an investigation which was initiated by the Directorate General of Intelligence [DRI] and on the basis of inputs that had been received by it. Upon the issuance of the SCN, the petitioner discloses that the Assistant Commissioner of Customs apprised them that the competent authority had accorded due approval to keep adjudication proceedings pertaining to the said notice in abeyance and till further orders in light of the provisions made in Section 28(9A)(c) of the Act. According to the petitioner, the said information was provided to them on 21 March 2022. The SCN proceedings are thereafter stated to have been fixed for consideration on 09 December 2022. The petitioner appeared before the second

¹ the Act

² SCN



respondent and filed their submissions on that date. The petitioner avers that their representative was again verbally informed by the second respondent that pending the **Central Board of Indirect Taxes and Customs**³ deliberating upon the judgment of the Supreme Court in **Canon India Private Limited v. Commissioner of Customs**⁴, an in-principle decision had been taken to keep all such SCNs' in abeyance.

3. On 12 December 2022, the petitioner drew the attention of the second respondent to the fact that the impugned SCN had in fact been issued by a Deputy Commissioner of Customs and thus clearly not impacted by what was ultimately held by the Supreme Court in *Canon India*. The contention specifically appears to have been that no legal impediment could be said to operate upon the jurisdiction of the Deputy Commissioner to take proceedings forward since the decision of the Supreme Court in *Canon India* could not be said to have cast a cloud on a proper officer of Customs exercising powers under Section 28(4) of the Act. Notwithstanding the aforesaid stand as struck by the petitioner, the respondents do not appear to have taken any further steps and it was in the aforesaid backdrop that the instant petition ultimately came to be filed before this Court sometime in January 2023.

4. The respondents in terms of the return which has been filed in these proceedings have essentially reiterated what was disclosed to the petitioner verbally by the Deputy Commissioner and has been alluded

³ Board

⁴ 2021 SCC OnLine SC 200

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to in the writ petition. That stand of the respondent flows from two communications of the Board dated 17 March 2021 and 16 April 2021. Since those communications would have some bearing on the question which stands posited, they are extracted hereinbelow: -

“Instruction No.04/2021-Customs

F. No.450/72/2021-Cus-IV
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs

Room No.227B, North Block, New Delhi
Dated the 17th of March, 2021.

To

Principal Additional Director General,
Directorate General of Intelligence (DRI),
New Delhi.

Sir,

Subject: Show Cause Notice (SCN) dated 19.03.2019 issued by DRI against Sh. Anil Aggarwal and 11 others - Directions to keep SCN pending - reg.

Reference is invited to the letters from your office drawing attention to the judgement dated 09.03.2021 of the Hon'ble Supreme Court in Civil Appeal No. 1827 of 2018 in the case of M/s Canon India Private Limited vs Commissioner of Customs. Vide the said judgement, the Hon'ble Apex Court has ruled that the Additional Director General (ADG) of Directorate of Revenue Intelligence (DRI) is not the proper officer to issue Show Cause Notice (SCN) under sub-section (4) of section 28 of the Customs Act, 1962. The Apex Court has concluded that the entire proceeding in the present case initiated by ADG (DRI) by issuing SCN, as invalid and without any authority of law. The Apex Court has accordingly set aside the subject SCN.

2. Further, attention is drawn to the specific reference for seeking Board's direction with respect to SCN dated 19.03.2019 against Sh. Anil Aggarwal and 11 others where the adjudication of the SCN would get barred by the limitation of time on 18th



March, 2021 under sub-section (9) of section 28 of the Customs Act, 1962, on account of the inability to proceed further due to the said judgement of the Hon'ble Supreme Court.

3. The matter has been examined. The implications of the said judgement are under active examination in the Board. Therefore, the Board has decided that for the present and until further directions, the said SCN may be kept pending.

4. Further, all the fresh SCNs under Section 28 of the Customs Act, 1962 in respect of cases presently being investigated by DRI are required to be issued by jurisdictional Commissionerates from where imports have taken place.

5. Difficulties, if any, may please be brought to the notice of Board. Hindi version follows.

Yours faithfully,

(Ananth Rathakrishnan)
Deputy Secretary (Customs)”

“F. No.450/72/2021-Cus-IV

Government of India
Ministry of Finance
Department of Revenue
(Central Board of Indirect Taxes and Customs)

Room No.227B, North Block, New Delhi

Dated:16th April, 2021.

To

The Principal Additional Director General,
Directorate General of Intelligence (DRI),
New Delhi.

Sir,

Subject: Hon'ble Supreme Court's larger bench judgment dated 09.03.2021 in the case of M/s Canon India Private Limited: Request to issue suitable advisory-reg.

Reference is invited to your office letter F. No. DRI/HQ-CI/C-Cell/50D/Misc-1/2019-CI (Pt). Dated 31.03.2021, Board's

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letter 450/72/2021-Cus IV and further clarifications vide your office letter of even no dated 15.04.2021.

2. The matter has been examined in light of the clarifications received from your office vide letter dated 15.04.2021. Since there is a possibility of multiple interpretations, the matter needs to be examined further in consultation with the Ministry of Law and Justice.

3. However, since DRI has indicated that several cases may be barred by the limitation of time at an early date, as a matter of abundant pre-caution, the SCNs may be got issued by Deputy Commissioner/Assistant Commissioner of the concerned port of import and be made answerable to them, pending further clarification. It may also be mentioned in this context that further action in respect of the said SCNs will be governed by Board/s Instruction 04/2021-Customs dated 17.03.2021.

Yours faithfully,
Sd/-

16.04.2021

(Ananth Rathakrishnan)
Deputy Secretary (Customs)”

5. Upon hearing learned counsels for parties, the Court had on the last occasion passed a detailed order formulating the question which arises in the following terms:-

1. “The instant petition assails the validity of a Show Cause Notice [SCN] dated 05 August 2021 issued by the Deputy Commissioner of Customs (Grade III), ICD (Import), Tughlakabad, New Delhi. The SCN purports to be under Section 28(4) of the Customs Act, 1962 [the Act] and refers to consignments imported vide five Bills of Entry numbered as 5959204, 5958177, 6299498, 6644758, 6645034.

2. As would be manifest from a reading of the SCN, the same came to be issued in the backdrop of certain investigations undertaken by the Directorate of Revenue Intelligence [DRI]. The SCN is dated 05 August 2021 and would thus ordinarily be governed by the provisions set out in Section 28(9).



3. The respondents, however, have referred to two directives issued by the Central Board of Indirect Taxes and Customs [**“the Board”**] dated 17 March 2021 and 16 April 2021 to contend that in light of those directions, the period of limitation within which the SCN was liable to be finalised would be governed by Section 28(9A)(c).

4. It becomes pertinent to note since the SCN had been issued under Section 28(4), it would be the period of one year as prescribed in Section 28(9)(b) which would have applied. Read along with the Proviso appended thereto, the respondents would have had a period of one additional year subject to compliances being made in terms of the said statutory provision.

5. It is the case of the petitioner that not only has the period of one year not been extended as contemplated in law, even the directives issued by the Board would not apply for the following reasons. It was firstly contended that notwithstanding the flux in the legal position which prevailed in the perception of the respondents and stemming from the judgment rendered by the Supreme Court in **Canon India Private Limited v. Commissioner of Customs**, [2021 SCC OnLine SC 200], the Customs authorities always stood empowered to initiate action under Section 28(4). Learned counsel submits that Canon India essentially holds that the investigating authorities attached to the DRI would not fall within the ambit of the expression “proper officer” so as to be empowered to initiate action under Section 28(4) of the Act. The submission essentially was that nothing prevented the Customs authorities from taking further proceedings on the SCN.

6. It was then submitted that a reading of the directives of 17 March 2021 and 16 April 2021 would ex facie establish that those were concerned which SCNs that may have been issued on or by the DRI albeit contrary to the final decision rendered by the Supreme Court in *Canon India*. It was contended that a reading thereof would indicate that the same could not have had any application to a SCN which was issued against the petitioner by an authority of the Customs itself.

7. It was additionally argued that the directives of the Board were based and predicated upon certain SCNs’ issued by DRI against Anil Aggarwal and 11 others. In view of the aforesaid, it was contended that the directives even if accepted at their face value would clearly not fall within the scope of “*similar matters*”, a phrase which is employed in Section 28(9A)(c).



8. Mr. Singh, learned counsel appearing for the Customs Department, prays for time to address submissions in the aforesaid light.

9. Let these matters be called again on 11.07.2023.

10. Interim orders granted earlier to continue till the next date fixed.”

6. Today when the matter was taken up, Mr. Singh, learned Standing Counsel who appears for Customs has again taken the Court through the two communications of the Board dated 17 March 2021 and 16 April 2021 and contends that the respondents harboured the belief that the aforementioned two communications would clearly fall within the ambit of Section 28(9A)(c) and it was in that background that the SCN proceedings were not finalized.

7. For the purposes of examining and evaluating the correctness of that submission, the Court firstly turns its gaze upon the two communications dated 17 March 2021 and 16 April 2021. As is manifest from a reading of the first directive of the Board, it was essentially dealing with cases where SCNs’ may have been issued by officers of the DRI proceeding on the assumption that they were authorized so to do by virtue of Section 28 of the Act. It was this class of SCNs’ which came to be impacted by the judgment of the Supreme Court in *Canon India* and which had held that an officer attached to the DRI would not be liable to be understood to be a “proper officer” for the purposes of initiation of proceedings under Section 28. The directive of 17 March 2021 in paragraph 3 then proceeds to allude to “said” SCN which had been issued against Sh. Anil Aggarwal and 11 others. Bearing in mind the fact that the said SCN was about to



become barred by limitation on 18 March 2021, the Board directed that the said SCN be kept pending. It however further clarified in paragraph 4 of that directive itself that in all other cases in which an investigation by the DRI is continuing, fresh SCN's may be got issued by the jurisdictional Commissionerates.

8. In terms of the directive of 16 April 2021, the Board apprised the concerned authorities that the entire gamut of issues which arose out of the judgment in *Canon India* had been duly examined and it had been decided that in all cases where the DRI may have issued the original SCNs', as a matter of abundant caution, SCNs' may be issued by the concerned Deputy Commissioners/Assistant Commissioners of the concerned port of import. It was further observed that further action in respect of the SCNs' would be governed by its instructions dated 17 March 2021. It would be pertinent to recall that the SCN which came to be issued against Gautam Spinners is dated 05 August 2021 and thus evidently post the issuance of two directives of the Board which have been noted hereinabove.

9. It is pertinent to note that the SCN against Gautam Spinners had been issued in purported exercise of powers conferred by Section 28(4) and which enables the Customs authority to initiate proceedings where duty has either not been levied, not paid, short levied, short paid or erroneously refunded on account of collusion, wilful misstatement or suppression of facts by the importer or the exporter as the case may be. Since the question which stands raised would have to be examined in the backdrop of Section 28 of the Act, the said provision is extracted hereinbelow: -

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“28. Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded. — (1) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any wilful mis-statement or suppression of facts, —

- (a) the proper officer shall, within two years from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or paid or which has been short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice:

Provided that before issuing notice, the proper officer shall hold pre-notice consultation with the person chargeable with duty or interest in such manner as may be prescribed;

- (b) the person chargeable with the duty or interest, may pay before service of notice under clause (a) on the basis of, —

- (i) his own ascertainment of such duty; or
(ii) the duty ascertained by the proper officer,

the amount of duty along with the interest payable thereon under Section 28-AA or the amount of interest which has not been so paid or part-paid:

Provided that the proper officer shall not serve such show cause notice, where the amount involved is less than Rupees One hundred.

(2) The person who has paid the duty along with interest or amount of interest under clause (b) of sub-section (1) shall inform the proper officer of such payment in writing, who, on receipt of such information, shall not serve any notice under clause (a) of that sub-section in respect of the duty or interest so paid or any penalty leviable under the provisions of this Act or the rules made thereunder in respect of such duty or interest:

Provided that where notice under clause (a) of sub-section (1) has been served and the proper officer is of the opinion that the amount of duty along with interest payable thereon under Section 28-AA or the amount of interest, as the case may be, as specified in the notice, has been paid in full within thirty days from the date of receipt of the notice, no penalty shall be levied and the proceedings against such person or other persons to whom the said notice is served under clause (a) of sub-section (1) shall be deemed to be concluded.

(3) Where the proper officer is of the opinion that the amount paid under clause (b) of sub-section (1) falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause (a) of that sub-section in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of two years shall be computed from the date of receipt of information under sub-section (2).

(4) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,—

- (a) collusion; or
(b) any wilful misstatement; or
(c) suppression of facts,



by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

(5) Where any duty has not been levied or not paid or has been short-levied or short-paid or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful misstatement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub-section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under Section 28-AA and the penalty equal to fifteen per cent of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.

(6) Where the importer or the exporter or the agent or the employee of the importer or the exporter, as the case may be, has paid duty with interest and penalty under sub-section (5), the proper officer shall determine the amount of duty or interest and on determination, if the proper officer is of the opinion—

- (i) that the duty with interest and penalty has been paid in full, then, the proceedings in respect of such person or other persons to whom the notice is served under sub-section (1) or sub-section (4), shall, without prejudice to the provisions of Sections 135, 135-A and 140 be deemed to be conclusive as to the matters stated therein; or
- (ii) that the duty with interest and penalty that has been paid falls short of the amount actually payable, then, the proper officer shall proceed to issue the notice as provided for in clause (a) of sub-section (1) in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of two years shall be computed from the date of receipt of information under sub-section (5).

(7) In computing the period of two years referred to in clause (a) of sub-section (1) or five years referred to in sub-section (4), the period during which there was any stay by an order of a court or tribunal in respect of payment of such duty or interest shall be excluded.

(7-A) Save as otherwise provided in clause (a) of sub-section (1) or in sub-section (4), the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed, and the provisions of this section shall apply to such supplementary notice as if it was issued under the said sub-section (1) or sub-section (4).

(8) The proper officer shall, after allowing the concerned person an opportunity of being heard and after considering the representation, if any, made by such person, determine the amount of duty or interest due from such person not being in excess of the amount specified in the notice.

(9) The proper officer shall determine the amount of duty or interest under sub-section (8), —



- (a) within six months from the date of notice, in respect of cases falling under clause (a) of sub-section (1);
- (b) within one year from the date of notice, in respect of cases falling under sub-section (4):

Provided that where the proper officer fails to so determine within the specified period, any officer senior in rank to the proper officer may, having regard to the circumstances under which the proper officer was prevented from determining the amount of duty or interest under sub-section (8), extend the period specified in clause (a) to a further period of six months and the period specified in clause (b) to a further period of one year:

Provided further that where the proper officer fails to determine within such extended period, such proceeding shall be deemed to have concluded as if no notice had been issued.

(9A) Notwithstanding anything contained in sub-section (9), where the proper officer is unable to determine the amount of duty or interest under sub-section (8) for the reason that—

- (a) an appeal in a similar matter of the same person or any other person is pending before the Appellate Tribunal or the High Court or the Supreme Court; or
- (b) an interim order of stay has been issued by the Appellate Tribunal or the High Court or the Supreme Court; or
- (c) the Board has, in a similar matter, issued specific direction or order to keep such matter pending; or
- (d) the Settlement Commission has admitted an application made by the person concerned,

the proper officer shall inform the person concerned the reason for non-determination of the amount of duty or interest under sub-section (8) and in such case, the time specified in sub-section (9) shall apply not from the date of notice, but from the date when such reason ceases to exist.

(10) Where an order determining the duty is passed by the proper officer under this section, the person liable to pay the said duty shall pay the amount so determined along with the interest due on such amount whether or not the amount of interest is specified separately.

(10A) Notwithstanding anything contained in this Act, where an order for refund under sub-section (2) of Section 27 is modified in any appeal and the amount of refund so determined is less than the amount refunded under said sub-section, the excess amount so refunded shall be recovered along with interest thereon at the rate fixed by the Central Government under Section 28-AA, from the date of refund up to the date of recovery, as a sum due to the Government.

(10-B) A notice issued under sub-section (4) shall be deemed to have been issued under sub-section (1), if such notice demanding duty is held not sustainable in any proceeding under this Act, including at any stage of appeal, for the reason that the charges of collusion or any wilful mis-statement or suppression of facts to evade duty has not been established against the person to whom such notice was issued and the amount of duty and the interest thereon shall be computed accordingly.



(11) Notwithstanding anything to the contrary contained in any judgment, decree or order of any court of law, tribunal or other authority, all persons appointed as Officers of Customs under sub-section (1) of Section 4 before the 6th day of July, 2011, shall be deemed to have and always had the power of assessment under Section 17 and shall be deemed to have been and always had been the proper officers for the purposes of this section.

Explanation 1.—For the purposes of this section, “relevant date” means,—

- (a) in a case where duty is not levied or not paid or short-levied or short-paid, or interest is not charged, the date on which the proper officer makes an order for the clearance of goods
- (b) in a case where duty is provisionally assessed under Section 18, the date of adjustment of duty after the final assessment thereof or re-assessment, as the case may be;
- (c) in a case where duty or interest has been erroneously refunded, the date of refund;
- (d) in any other case, the date of payment of duty or interest.

Explanation 2.—For the removal of doubts, it is hereby declared that any non-levy, short-levy or erroneous refund before the date on which the Finance Bill, 2011 receives the assent of the President, shall continue to be governed by the provisions of Section 28 as it stood immediately before the date on which such assent is received.

Explanation 3.—For the removal of doubts, it is hereby declared that the proceedings in respect of any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where show cause notice has been issued under sub-section (1) or sub-section (4), as the case may be, but an order determining duty under sub-section (8) has not been passed before the date on which the Finance Bill, 2015 receives the assent of the President, shall, without prejudice to the provisions of Sections 135, 135-A and 140, as may be applicable, be deemed to be concluded, if the payment of duty, interest and penalty under the proviso to sub-section (2) or under sub-section (5), as the case may be, is made in full within thirty days from the date on which such assent is received.

Explanation 4.—For the removal of doubts, it is hereby declared that notwithstanding anything to the contrary contained in any judgment, decree or order of the Appellate Tribunal or any Court or in any other provision of this Act or the rules or regulations made thereunder, or in any other law for the time being in force, in cases where notice has been issued for non-levy, short-levy, non-payment, short payment or erroneous refund, prior to the 29th day of March, 2018, being the date of commencement of the Finance Act, 2018 (13 of 2018), such notice shall continue to be governed by the provisions of Section 28 as it stood immediately before such date.”

10. As would be evident from a reading of the aforesaid provision, sub-section (4) provides a window of five years from the relevant date within which proceedings under the said provision may be initiated. The proceedings so initiated are liable to be brought to a close in



accordance with the statutory timelines which stand set out in sub-section (9). In terms of sub-section (9) and since the notice had been issued with reference to Section 28(4), the proceedings were liable to be brought to a close within one year from the date of the notice and in the facts of the present case, the same being computed from 05 August 2021.

11. Of equal significance is the amendment which came to be introduced in Section 28(9)(b) in terms of **Finance Act, 2018**⁵ and pursuant to which the words “*where it is possible to do so*” came to be deleted. The statutory amendment as introduced in terms of the aforementioned Act 13 of 2018 thus clearly lends credence to the submission of learned counsel for the petitioner that the period of one year as prescribed in clause (b) was legislatively conferred a mandatory flavour.

12. The Court then takes note of Section 28(9A)(c) and which is the principal provision which is sought to be invoked by the respondents in order to save the SCNs’ which have been impugned. Clause (c) speaks of SCN proceedings being kept pending in light of directions that may be issued by the Board. It significantly employs the phrases “*similar matter*”, “*specific direction*” and “*such matter*”.

13. Undisputedly, the SCNs’ which had been issued against Anil Aggarwal and 11 other individuals did not stand on the same pedestal as the SCNs’ impugned here since the former, undisputedly, had been issued by the officials of the DRI. In fact, it was those SCNs’ which formed the primary subject matter of the Board’s directives dated 17

⁵ Act 13 of 2018



March 2021 and 16 April 2021. As was noticed hereinbefore, the SCNs' which stand impugned in these petitions had admittedly been issued post the promulgation of those directives by the Board and admittedly by the competent jurisdictional Commissionerates.

14. We thus find ourselves unable to accept the position of any legal impediment which could be recognised to have either fettered the jurisdiction or restrained the concerned jurisdictional Commissionerates from proceeding to finalize the SCNs' in accordance with Section 28(9)(b). The direction of similar SCNs' being placed in abeyance and which is an aspect which is referred to in the directives of the Board must necessarily be recognised to be restricted to those SCNs' which may have originally been issued by the DRI. This since undisputedly the judgment in *Canon India* did not place a cloud on the authority and jurisdiction of Customs authorities to initiate proceedings under Section 28(4) or take those proceedings to their logical conclusion. The competent authority of Customs would have been justified in placing the impugned SCN proceedings pending only in a situation where the original SCNs' had been issued by an officer of the DRI. This since it was the aforementioned situation which confronted the Department in the matter of Anil Agarwal. It was the factual position as obtaining in the matter of Anil Agarwal and 11 other noticees which was liable to be understood to constitute the "similar matter" spoken of in Section 28(9A) (c) of the Act.

15. We are thus of the firm opinion that the proceedings initiated against the present petitioners cannot be said to be covered under the directives of the Board noticed hereinabove. Those SCNs' would also

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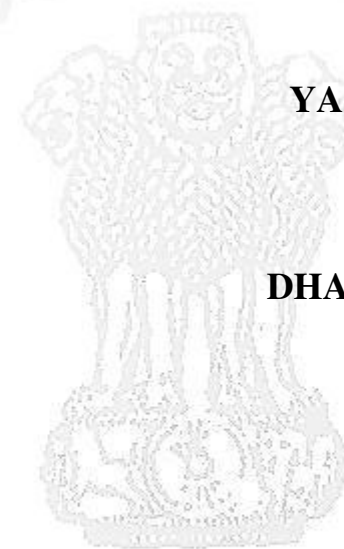
not fall within the ambit of Section 28(9A)(c). Since admittedly, the maximum period as prescribed under Section 28(9) has expired, those proceedings would not survive in law.

16. Accordingly and for all the aforesaid reasons, the writ petitions are allowed. The impugned SCNs' dated 05 August 2021 in W.P. (C) 122/2023, 14 July 2021 in W.P. (C) 2979/2023, 03 August 2021 in W.P. (C) 3002/2023 and 05 July 2021 in W.P. (C) 3003/2023 shall stand quashed and set aside.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

JULY 11, 2023
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