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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.3284 OF 2024**

Milan Sureshbhai Patel .. Petitioner
Versus
Union of India .. Respondent

**AND
WRIT PETITION NO.4456 OF 2024**

Gautam Sureshbhai Patel .. Petitioner
Versus
Union of India .. Respondent

Mr. Prakash Shah, Mr. Jas Sanghavi, Mr. Yash Prakash for the petitioner.
Ms. Ruju Thakkar for respondent.

**CORAM : M. S. Sonak &
Jitendra Jain, JJ.
DATE : 27 November 2024**

PC.:-

1. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.
2. The learned counsel for the parties agree that this petition can be disposed of by a common order since the issues involved are the same.
3. The challenge in both petitions concerns the Order-in-Original dated 12 April 2024 made by respondent No.2. The petitioners alleged that the impugned show cause notice dated 18 June 2018, based on which the impugned orders were made, was not issued by the proper

officer, given the ruling in ***Canon India Private Limited vs. Commissioner of Customs***¹. However, this ground no longer survives after the Hon'ble Supreme Court allowed Review Petition No. 400 of 2021 on 7 November 2024.

4. Therefore, we would ordinarily relegate the petitioner to file an appeal against the impugned orders. However, in this case, we are satisfied that there was a failure of natural justice when it came to the petitioners' personal hearing. Since we propose to interfere with the orders on this ground, there will be no point in relegating the petitioners to avail themselves of the alternate remedy of appeal.

5. The record in this case shows that the petitioners were given a notice dated 2 April 2024 calling upon them to attend the personal hearing on 8 April 2024. The record, however, shows that this notice was served on the petitioners only on 9 April 2024, i.e. the date after the date fixed for a personal hearing. Thus, it is clear that the petitioners did not have any notice of the personal hearing date, so the petitioners/their representatives could not attend the hearing. The impugned Orders-in-Original were made within the next 3 days, i.e. on 12 April 2024.

6. We adjourned this matter at the request of Ms. Thakkar to enable her to obtain instructions on whether the notice of personal hearing was served to the petitioners through e-mail. She has confirmed that, at least in these two petitions, notices dated 2 April 2024 were not served by E-mail. However, Ms Thakkar submits that in so far as earlier hearings are concerned, due notice was furnished to the petitioner, pursuant to which the petitioner/ their representatives even appeared before respondent No.2

¹ AIR 2021 SC 1699

7. Considering the above facts, which are also backed by documents on record, we accept that there has been a gross breach of natural justice and fair play. On these grounds, and without entering into the merits, we quash and set aside the impugned Orders-in-Original dated 12 April 2024 *qua* the petitioners and restore the show-cause notices before respondent No.2 with directions to dispose of the show-cause notices by giving the petitioners a personal hearing.
8. Respondent No.2 must complete this exercise within 3 months from today. All the contentions of all the parties, except those concluded by the Hon'ble Supreme Court in its decision dated 7 November 2024, are kept open.
9. The Rule is made absolute in the above terms only *qua* the petitioners, and there shall be no cost order.
10. All concerned must act on an authenticated copy of this order.

(Jitendra Jain, J.)

(M. S. Sonak, J.)