

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.539 of 2018

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The Commissioner Of Customs, Patna, Central Revenue Building, Beerchand
Patel Path, Patna.

... .. Respondent/ Appellant

Versus

Shri Paramjeet Singh, Son of Shri Mehma Singh, Resident of 302, Vishnupuri
Colony, Annex, Police Station- Bhawarkuan, District- Indore (Madhya
Pradesh).

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. (Dr.) K. N. Singh, ASG Mr. Anshuman Singh, Sr. S.C. Customs Mr. Shivaditya Dhari Sinha, Advocate
For the Respondent/s	:	Mr. Navendu Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
and
HONOURABLE MR. JUSTICE DR. ANSHUMAN

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE DR. ANSHUMAN)

Date : 18-09-2025

Heard Mr. K. N. Singh, learned Additional Solicitor
General of India, assisted by Mr. Anshuman Singh, Senior
Standing Counsel, and Mr. Shivaditya Dhari Sinha, Advocate,
for the appellant; and Mr. Navendu Kumar, learned counsel for
the respondent.

2. The present Memorandum of Appeal has been
preferred against Final Order No. 77792/2017 dated 10.11.2017,



passed by the Customs, Excise and Service Tax Appellate Tribunal, Eastern Zonal Bench, Kolkata (hereinafter referred to as 'the Tribunal'), in Customs Appeal No. 71432 of 2013. By this order, the Tribunal set aside the order-in-original dated 18.01.2012, passed by the appellant in O/o No. 01-CUS/CC/DRI/12.

3. Learned Sr. Counsel for the appellant submits that vide order dated 10.11.2017, the Customs, Excise & Service Tax Appellate Tribunal remanded the matter for fresh adjudication by setting aside the order dated 18.01.2012 passed in Adjudication Order No. 01-CUS/CC/DRI/12 by the Commissioners of Customs, Patna. The Tribunal at the time of passing the said order relied on the ratio laid down by the Hon'ble High Court of Delhi in the case of *BSNL vs. Union of India (Writ Petition No. C/4438/2017 and CM No. 19387/2017)*, which decided the issue of jurisdiction following the decision in *Mangali Impex Ltd. vs. Union of India* reported in *2016 (335) E.L.T. 605 (Del)*. Learned counsel for the appellant further submits that the issue involved in the present case has been finally decided by the Hon'ble Supreme Court in the case of *Commissioner of Customs vs. Canon India Private Limited* reported in *(2025) 4 Supreme Court Cases 509*. He



submits that by this judgment, the Hon'ble Supreme Court has set aside the decision rendered in *Mangali Impex Ltd. (supra)* and approved the contrary view taken by the Hon'ble High Court of Mumbai in *Sunil Gupta vs. Union of India* reported in *2015 (315) E.L.T. 167 (Bom)*. Therefore, he submits that since the issue involved in the present appeal has already been conclusively decided in *Canon India Private Limited (supra)*, the order passed by the Appellate Tribunal dated 10.11.2017 in Customs Appeal No. 71432 of 2013, vide Final Order No. 77792/2017, be set aside and the Tribunal be directed to pass a reasoned order in light of the ratio laid down by the Hon'ble Supreme Court in *Canon India Private Limited (supra)*.

4. Learned counsel for the respondent submits that the core issue pertains to the proper applicability of Section 28 read with other relevant provisions of the Customs Act, 1962. In this regard, the learned counsel for the respondent supports the contention of the learned Sr. Counsel for the appellant that the Appellate Tribunal may be directed to pass a fresh order in light of the judgment of the Hon'ble Supreme Court in *Canon India Private Limited (supra)*.

5. After hearing the parties and upon perusal of the judgment of the Hon'ble Supreme Court rendered in the case of



Canon India Private Limited (supra), it is observed that paragraphs 183.6, 184, 185, 186, and 187 lay down the *ratio decidendi* of the judgment. The relevant portions of the said judgment are reproduced hereinbelow:

“183.6. 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 1962 Act 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 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 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 CESTAT, they shall now be decided in accordance with the observations made in this decision.

184. *In view of the aforesaid, we allow Review Petition No. 400 of 2021 titled Commr. of Customs v. Canon India (P) Ltd. and the connected*



Review Petitions Nos. 401-403 of 2021 insofar as the issue of jurisdiction of the proper officer to issue show-cause notice under Section 28 is concerned. As discussed, the findings of this Court in Canon India [Canon India (P) Ltd. v. Commr. of Customs, (2021) 18 SCC 563 : (2021) 16 GSTR-OL 1] in respect of the show-cause notices having been issued beyond the limitation period remain undisturbed.

185. We set aside the decision of the High Court of Delhi rendered in Mangali Impex [Mangali Impex Ltd. v. Union of India, (2016) 39 GSTR 338 : 2016 SCC OnLine Del 2597] and uphold the view taken by the High Court of Bombay in Sunil Gupta [Sunil Gupta v. Union of India, (2016) 39 GSTR 143 : 2014 SCC OnLine Bom 1742] . We also uphold the constitutional validity of Section 97 of the Finance Act, 2022.

186. The Registry shall take steps to list the connected civil appeals and writ petitions before the appropriate Bench and they shall be disposed of in terms of the observations made in this judgment.

187. The review petitions are accordingly disposed of.”

6. It is categorically indicated in paragraph 183.6(e) of the said judgement that “(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 CESTAT for hearing the matter on merits.”

7. In light of the above observation made by the Hon’ble Supreme Court, this Court hereby sets aside the order dated 10.11.2017 passed by the Customs, Excise and Service Tax Appellate Tribunal, Eastern Zonal Bench, Kolkata in Customs Appeal No. 71432 of 2013, vide Final Order No. 77792/2017, and remands the matter back to the said Tribunal for hearing on merits. The Tribunal is directed to hear and decide the matter afresh, after issuing notice to all concerned parties, within a period of eight weeks from the date of production of a copy of this order.

8. With the aforesaid observations and directions, the present appeal is hereby allowed.

Bibek Chaudhuri, J : I agree.

(Bibek Chaudhuri, J)

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	
CAV DATE	16.09.2025
Uploading Date	18/09/2025
Transmission Date	

