$~37

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

\+ **CUSAA 4/2021 & CM APPL. 5519/2021**

COMMISSIONER OF CUSTOMS, INLAND CONTAINER DEPOT (EXPORT)TUGHLAKABAD, DELHI ..... Appellant

Through: Ms. Anushree Narain, SSC with Mr.Ankit Kumar, Adv.

versus

M/S ROYAL CONNEXIONS PVT LTD ..... Respondent

Through: Mr. Rajesh Gupta & Mr. Anubhav Mehrotra, Advs. (Mob:9582165564)

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

ORDER

% **08.04.2025**

1. This hearing has been done through hybrid mode.

2. The present appeal challenges the Final order No. C/A/ 55834- 55836/ 2017 CU [DB] dated 24th July, 2017 passed by the Customs Excise and Service Tax Appellate Tribunal *('CESTAT'),* New Delhi in Customs Appeal No. C/462/2011. The said order reads as under:

> *"In view of the fact that the matter adjudicated in the present impugned order against the main importer, M/s Sri Sai Sathvik Impex (P) Ltd. has already been set aside by the Tribunal, we are of the view that these appeals should also be allowed in line with the order dated 29.6.2017 passed by the Tribunal. Accordingly, we remand the matter to the adjudicating authority for a fresh decision. The appeals are allowed by way of remand."*

3. Ms. Narain, ld. Senior Standing Counsel submits that the main issue in the present appeal was in respect of the jurisdiction of the DRI officials which

now stands decided in the judgment rendered in ***Review Petition 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. Accordingly, the matter is remanded back to CESTAT in terms of para 168(vi)(e). In view thereof, the appeal being ***Custom Appeal No. 462/2011*** is restored to its original position before the CESTAT for adjudication on merits.

6. List before the CESTAT on 2nd July, 2025.

7. A copy of this order be communicated to the Registrar, CESTAT.

8. The present appeal is disposed of in the above terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J

RAJNEESH KUMAR GUPTA, J

APRIL 8, 2025
Rahul/ss