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

\+ **W.P.(C) 3185/2022&CM APPL. 9263/2022**

MS. CHAN KAI LI .....Petitioner

Through: Ms. Sangita Bhayana, Adv.

versus

SH. SUMIT KUMAR ., INTELLIGENCE OFICER ,
DRI AND ANR .....Respondents

Through: Ms. Vertika Sharma, Ms. Khushboo and Mr. Kunal Goswami, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

<u>O R D E R</u>

% 08.12.2025

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, *inter alia*, challenging the seizure memo dated 28th August, 2019 as also the Show Cause Notice (hereinafter, *'SCN'*) dated 29th December, 2020 issued by the Directorate of Revenue Intelligence (hereinafter, *'DRI'*).

3. The primary challenge in the present petition was to the power of the DRI officials who were contended to be not *'proper officers'* under the Customs Act, 1962.

4. This issue has been decided by the Supreme Court in ***Review Petition No. 400 of 2021*** titled ***Commissioner of Customs vs. M/s. Canon India Pvt. Ltd.*** The relevant extract of the ***Canon India Pvt. Ltd. (Supra)*** decision is set out below:

"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."

Extraction:

5. The Court is also informed that the SCN proceedings have also culminated in the Order-in-Original dated 8th February, 2022.

6. Under these circumstances, after the decision in ***Canon India Pvt. Ltd. (Supra),*** the challenge in this petition would not survive.

7. Insofar as the Order-in-Original is concerned, all rights and remedies are left open to be availed of in accordance with law.

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

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

DECEMBER 8, 2025/*kp/ck*