$~72 to 76

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

\+ **W.P.(C) 2201/2025 & CM APPL. 10370/2025, CM APPL. 10371/2025**

NITIN NAGPAL .....Petitioner

Through: Mr. Krishna Rao, Adv.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Mr. Ashish Goyal, SPC with Mr. Anurag Singhal, Adv. for R1.
Mr. Harpreet Singh, SSC with Ms. Suhani Mathur, Adv. for R2.

73 WITH

\+ **W.P.(C) 2202/2025 & CM APPL. 10372/2025, CM APPL. 10373/2025**

RITIN NAGPAL .....Petitioner

Through: Mr. Krishna Rao, Adv.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Mr. Ashish Goyal, SPC with Mr. Anurag Singhal, Adv. for R1.
Mr. Harpreet Singh, SSC with Ms. Suhani Mathur, Adv. for R2.

74 WITH

\+ **W.P.(C) 2219/2025 & CM APPL. 10420/2025, CM APPL. 10421/2025**

RAJAN NAGPAL .....Petitioner

Through: Mr. Krishna Rao, Adv.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Ms. Anushkaa Arora, SPC for R1.

Mr. Harpreet Singh, SSC with Ms. Suhani Mathur, Adv. for R2.

75 WITH

\+ **W.P.(C) 2228/2025 & CM APPL. 10436/2025, CM APPL. 10437/2025**

GAGANDEEP SINGH BAHRI .....Petitioner

Through: Mr. Krishna Rao, Adv.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Mr. Ravi Kant Srivastava, Adv. for R1.

Mr. Harpreet Singh, SSC with Ms. Suhani Mathur, Adv. for R2.

76 AND

\+ **W.P.(C) 2229/2025 & CM APPL. 10438/2025, CM APPL. 10439/2025**

KASHMIR WALNUT OVERSEAS PVT LTD .....Petitioner

Through: Mr. Krishna Rao, Adv.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Mr. Ramjee Pandey, SPC for R1.

Mr. Harpreet Singh, SSC with Ms. Suhani Mathur, Adv. for R2.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE DHARMESH SHARMA

O R D E R

% **20.02.2025**

1. This hearing has been done through hybrid mode.

2. These petitions have been filed under Articles 226 and 227 of the Constitution of India challenging the impugned Order-in-Original dated 20th

December, 2024 passed by the Respondent No. 2 - Principal Commissioner of Customs, Inland Container Depot, Tughlakabad, New Delhi.

3. The brief background is that the Petitioners in ***W.P.(C) 2201/2025*** - Nitin Nagpal, ***W.P.(C) 2202/2025*** **-** Ritin Nagpal and ***W.P.(C) 2219/2025*** **-** Ranjan Nagpal are directors of the Petitioner firm - *M/s Kashmir Walnut Overseas Pvt. Ltd* in ***W.P.(C) 2229/2025***. The said firm is involved in the business of import and export of walnuts (hereinafter "*subject goods*"). Further, the Petitioner - Gagandeep Singh Bahri in ***W.P.(C) 2228/2025*** is the director of M/s. United Seair Pvt. Ltd., which is the Customs House Agent connected with the said Petitioner firm.

4. On 23rd November, 2023, a show cause notice (hereinafter "*SCN*") was issued to the Petitioners raising various demands against the Petitioners. One of the allegations against the Petitioners was that the subject goods, which were imported, were not exported back and thus, there was diversion into the domestic market. The Petitioners were given an opportunity to file a reply to the said SCN. Cross-examination of various witnesses including some expert witnesses from the Indian Council for Agricultural Research was also permitted. Thereafter, written submissions were also filed by the Petitioners on 8th November, 2024. Finally, the impugned Order-in-Original, passed on 20th December, 2024, has confirmed various demands against the Petitioners.

5. Mr. Rao, ld. Counsel for the Petitioners has made his submissions, raising broadly three grounds. First, after the cross-examination was concluded on 29th October, 2024, no opportunity was afforded for personal hearing despite the request by the Petitioner. Secondly, the Petitioners were not given an opportunity to cross-examine those witnesses who had given their statements under Section 138B of the Customs Act, 1962. Finally, it is

submitted that providing a personal hearing after completion of the cross-examination was mandatory and non-affording of the same would amount to a violation of the principles of natural justice.

6. The petition is opposed by Mr. Harpreet Singh, ld. SSC for the Department on the ground of maintainability that the impugned Order-in-Original is appealable before the Customs Excise and Service Tax Appellate Tribunal (hereinafter "*CESTAT*").

7. After having heard the ld. Counsels for the parties, the Court is of the view that the Petitioners ought to be relegated to avail of the remedy against the impugned Order-in-Original before the CESTAT. This Court has not examined any of the grounds which have been raised by the Petitioners. All objections are kept open. The Petitioners are free to raise all their grounds of challenge to the impugned order before CESTAT.

8. Considering the nature of the matter and the submissions made today, in the unique facts and circumstances of these cases, the pre-deposit for filing the appeal is reduced to 3.75%. This order shall not be treated as a precedent.

9. These petitions are disposed of in the above terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

DHARMESH SHARMA, J.

FEBRUARY 20, 2025
Ch/ms