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

Date of Decision: 18th March, 2025

+ **W.P.(C) 3313/2025 & CM APPL. 15627/2025**

RAJAN NAGPALPetitioner

Through: Mr. A. R. Madhav Rao, Mr. Krishna Rao, Ms. Soumya Panda & Mr. Mukunda Rao, Advocates.

versus

UNION OF INDIA & ANR.Respondents

Through: Ms. Anushkaa Arora, Senior Panel Counsel with Mr. Sagar Belval, Advocate for UOI. (Mob: 9810570295)
Mr. Gibran Naushad, Senior Standing Counsel, CBIC with Mr. Harsh Singhal, Advocate.

75

+ **W.P.(C) 3324/2025 & CM APPL. 15731/2025**

RITIN NAGPALPetitioner

Through: Mr. A. R. Madhav Rao, Mr. Krishna Rao, Ms. Soumya Panda & Mr. Mukunda Rao, Advocates

versus

UNION OF INDIA & ANR.Respondents

Through: Ms. Anushkaa Arora, Senior Panel Counsel with Mr. Sagar Belval, Advocate for UOI. (Mob: 9810570295)
Mr. Ashish Goyal, Senior Panel Counsel with Mr. Anurag Singhal, Advocate for UOI (Mob: 9811029221)
Mr. Gibran Naushad, Senior Standing Counsel, CBIC with Mr. Harsh Singhal, Advocate

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W.P.(C) 3343/2025 & CM APPL. 15784/2025

NITIN NAGPAL

.....Petitioner

Through: Mr. A. R. Madhav Rao, Mr. Krishna Rao, Ms. Soumya Panda & Mr. Mukunda Rao, Advocates

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Ms. Anushkaa Arora, Senior Panel Counsel with Mr. Sagar Belval, Advocate for UOI. (Mob: 9810570295)
Mr. Ashish Goyal, Senior Panel Counsel with Mr. Anurag Singhal, Advocate for UOI (Mob: 9811029221)
Mr. Gibran Naushad, Senior Standing Counsel, CBIC with Mr. Harsh Singhal, Advocate

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W.P.(C) 3345/2025 & CM APPL. 15786/2025

M/S KASHMIR WALNUT OVERSEAS PVT LTDPetitioner

Through: Mr. A. R. Madhav Rao, Mr. Krishna Rao, Ms. Soumya Panda & Mr. Mukunda Rao, Advocates

versus

UNION OF INDIA & ANR.

....Respondents

Through: Ms. Anushkaa Arora, Senior Panel Counsel with Mr. Sagar Belval, Advocate for UOI. (Mob: 9810570295)
Mr. Gibran Naushad, Senior Standing Counsel, CBIC with Mr. Harsh Singhal, Advocate.
Mr. Ramjee Pandey, Senior Panel Counsel for UOI
Mr. Nawal Kishore Jha, SPC for UOI with Ms. Kalpana Jha, Adv.

92

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W.P.(C) 3346/2025 & CM APPL. 15787/2025



M/S UNITED SEAIR PVT LTD

.....Petitioner

Through: Mr. A. R. Madhav Rao, Mr. Krishna Rao, Ms. Soumya Panda & Mr. Mukunda Rao, Advocates

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Ms. Anushkaa Arora, Senior Panel Counsel with Mr. Sagar Belval, Advocate for UOI. (Mob: 9810570295)
Mr. Gibran Naushad, Senior Standing Counsel, CBIC with Mr. Harsh Singhal, Advocate

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petitions have been filed under Article 226 & 227 of the Constitution of India challenging the impugned Order-in-Original bearing no 01/2025/SK/Commr/ICD/Export/TKD dated 31st January, 2025, passed by the Commissioner of Customs (Export), Inland Container Depot, Tughlakabad, New Delhi.
3. The brief background is that the Petitioners *i.e.*, Mr. Rajan Nagpal, Mr. Nitin Nagpal and Mr. Ritin Nagpal, are the Directors of M/s Kashmir Walnut Overseas Pvt. Ltd. and Mr. Gangandeep Bhari is the Director of M/s United Seair Pvt. Ltd., the freight forwarder which is connected with the Petitioner firm.
4. The case of the Petitioners is that various consignments of 'walnut kernels' were to be exported by the Petitioners. A Show Cause Notice was issued on 18th October, 2023 against the Petitioners, raising various demands.



The allegation in the said Show Cause Notice was that the goods which were imported were not exported back and were in fact, diverted to the domestic market. Pursuant to the said Show Cause Notice, an Order-in-Original has been passed which is impugned before this Court.

5. As per the Order-in-Original, the goods of the Petitioners are in contravention to the provisions of the Customs Act, 1962 and the same are liable to be confiscated.

6. The submission of Mr. Rao, Id. Counsel for the Petitioners is two fold. One that the scientists from Indian Council of Agricultural Research (hereinafter '*ICAR*') were not permitted to be cross-examined and second that even the cross-examination of the said scientists before the Principal Commissioner, in a similar case, though filed on record, has not been considered while passing the impugned order.

7. Ld. counsel further submits that the Show Cause Notice has been reproduced in the Order-in-Original and there is no consideration of the stand of the Petitioners in the said order. In addition, it is submitted that if the Petitioners are relegated to the appellate remedy before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), a substantial amount of pre-deposit would have to be made by them. Reliance is placed on an order passed in a similar case involving the same parties in ***W.P.(C) 2201/2025*** and connected matters in which the pre-deposit was reduced to 3.75%.

8. Ld. counsel for the Respondents submits that the pre-deposit is statutorily prescribed.

9. After having heard the Id. 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, as done in the



connected case. In ***W.P.(C) 2201/2025*** titled '***Nitin Nagpal v. Union of India & Anr.***' this Court *vide* order dated 20th February 2025, had directed as under:

"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"

10. Accordingly, the Petitioners are relegated to avail of their appellate remedy before CESTAT. The Petitioners are free to raise all their grounds of challenge to the impugned order before CESTAT. This Court has not examined any of the grounds which have been raised by the Petitioners. All objections are kept open. If the CESTAT finds it relevant, the cross-examination of the ICAR scientists before the Principal Commissioner in the connected matters may be taken into consideration for adjudication of the appeals.

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

12. Needless to add that the merits of this matter have not been considered.



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13. The petitions are disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MARCH 18, 2025
kk/ck