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

+ **W.P.(C) 4046/2021 & CM APPL. 12214/2021**

**M/S NEKTAR THERAPEUTICS INDIA
PVT LTD & ANR.**

.....Petitioners

Through: Mr. Priyojeet Chatterjee, Advocate.
versus

UNION OF INDIA & ORS.

.....Respondent

Through: Mr. Harpreet Singh, Senior Standing
Counsel with Ms. Suhani Mathur, Mr.
Jai Ahuja and Mr. Akshay Saxena,
Advocate.
Mr. Amit Tiwari, CGSC with Mr.
Himanshu Bidhuri, Ms. Ayushi
Srivastava, Mr. Ayush Tanwar,
Advocates for UOI.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

ORDER

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08.04.2025

1. This hearing has been done through hybrid mode.
2. This petition has been filed by the Petitioners under Article 226 and 227 of the Constitution of India seeking issuance of appropriate order declaring Para 6 of the Circular No. 11/2016 - Customs dated 15th March, 2016 as ultra-vires the provisions of the Customs Act, 1962 and therefore liable to be read down, in as much as the same restricts the scope and meaning of Section 28(5) and Section 28(6) of the Customs Act, 1962, beyond its jurisdiction and authority of law.
3. Further, the petition also seeks for setting aside the Order-in-Appeal bearing no. CC(A)/CUS/D-I/Import/NCH/1470/2020-21 dated 18 February



2021 passed by Respondent No. 3– Joint Commissioner, New Custom House, New Delhi, on the ground of the same being passed without jurisdiction.

4. Ld. Counsel for the Petitioners submits that he wishes to withdraw the present petition as it has become infructuous as the Director against whom the penalty was imposed vide the Order-in-Appeal has passed away during the COVID-19 pandemic.

5. In view of the aforesaid, the present petition is dismissed as withdrawn. Pending application(s), if any, stand disposed of.

PRATHIBA M. SINGH, J

RAJNEESH KUMAR GUPTA, J

APRIL 8, 2025/nd/ss