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

Date of decision: 11th December, 2025

Uploaded on: 12th December, 2025

+ **W.P.(C) 6402/2021 & CM APPL. 20096/2021**

LALIT KUMAR BABU LAL TATERPetitioner

Through: Mr.Sahil Yadav, Adv.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Harpreet Singh, SSC with Ms.
Suhani Mathur, Mr. Jatin Gaur, Advs.

12 AND

+ **W.P.(C) 7155/2021 & CM APPL. 22596/2021**

LALIT KUMAR BABU LA TATERPetitioner

Through: Mr.Sahil Yadav, Adv.

versus

UNION OF INDIA REPESENTED BY MINISTRY OF
FINANACE & ORS.

.....Respondents

Through: Mr. Harpreet Singh, SSC with Ms.
Suhani Mathur, Mr. Jatin Gaur, Advs.
Ms. Saumya Tandon, CGSC with
Mr.Gaurav Singh Sengar, Advs. for
UOI.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petitions have been filed by the Petitioner under Article 226 of the Constitution of India, *inter alia*, challenging the following as null and void :



- Show Cause Notice (hereinafter, 'SCN') dated 18th September, 2019 as well as the Order-in-Original dated 14th September, 2020 in ***W.P.(C) 7155/2021*** .
 - SCN dated 29th April, 2019 as well as the Order-in-Original dated 29th September, 2020 in ***W.P.(C) 6402/2021***.
3. The prayer in these writ petitions are as under:

In W.P.(C) 7155/2021

"A. Pass interim directions and stay for the effect and/or proceedings, etc. emanating or related with impugned show cause notice bearing F. No. DRI/HQ-CI/Enq-13(Int-19)/2015/3391 dated 18.09.2019 as well as the O-I-O dated 14.09.2020 passed by Respondent no. 3 and further steps as may be contemplated qua the Petitioners;

B. Pass any other/further order(s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present matter"

In W.P.(C) 6402/2021

"a) Pass an order to declare the Show Cause Notice dated 29.04.2019 as well as Order-in-Original dated 29.09.2020 as a null and void in the light of judgment of Hon'ble Supreme Court of India in the matter of Mis Canon India Private Limited versus Commissioner of Customs, Civil Appeal No.1827 Of 2018 dated 09.03.2021.

b) Pass such other or further order(s)/ direction(s) as may be deemed fit and proper in the facts and circumstances of the case and to secure the ends of justice."

4. The only issue that was raised in these petitions was in respect of the decision of the Supreme Court in ***Canon India Pvt. Ltd. v. Commissioner of Customs, 2021 (18) SCC 563***, wherein, it was initially held that the Directorate of Revenue Intelligence (hereinafter, 'DRI') Officers are not '*proper officers*' under the Customs Act, 1962.



5. The said decision has been reviewed and in *Review Petition No. 400 of 2021* titled *Commissioner of Customs vs. M/s. Canon India Pvt. Ltd.* the Supreme Court held as under:

*“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."

6. Thus, the challenge in these petitions no longer survives. An additional issue has been raised in respect of service of the SCN which clearly appears to be a plea which is an afterthought. However, in order to satisfy the aspect of service, the Court had called for an affidavit by the Department in which it is stated as under:

"8. It is further submitted that, the issue of non-serving the notice is a matter of fact not a question of law.

8.1 It is submitted that the subject SCN was issued by the then Pr. ADG, DRI headquarters on 18.09.2019 to M/s Meroz Exim, Ms. Sweety, Sh. Kalpesh B Tater (all Directors of Meroz Exim), Sh. Lalit Kumar Babulal Tater & and Sh. H. Vijay Kumar. Corrigendum of the SCN was issued on 18.11.2019. As per records, the SCN was dispatched to all



noticees including Ms. Sweety Mehra, Sh. Kalpesh B Tater & Sh. Lalit Kumar Babulal Tater at their registered / last known address. The SCN along with its corrigendum were also displayed on notice board of the office.

8.2 Further, an email dated 23.11.2019 (email id-merozexim@gmail.com) was received from Ms. Sweety Mehra, one of the co-noticee of the SCN and one of the Director of M /s Meroz Exim. The said email mentioned "Kindly refer to the Panchnama Dated 09-11-2016 Drawn at the premises of RZ-18, D Block, Jai Vihar, Delhi-110043. In this connection it is requested that show Cause notice in this case has been issued. So it is requested that all items seized in this case as per panchnama dated 09-11-2016 may be released to my authorized representative Namely- Shri Lalit Kumar Babulal Tater."

8.3 Further, Lalit Kumar Babulal Tater had appeared on 27.11.2019 and signed an acknowledged receipt of the seized items on behalf of Ms. Sweety. He had also mentioned email id merozexim@gmail.com alongwith id lalitkumarbabulaltater@gmail.com as his email id.

From the above, it appears that SCN was served and Sweety Mehra, Director of M/s Meroz Exim after receipt of SCN requested for release of seized items which was received by Sh Lalit Kumar Babulal Tater from this office. Thus, it appears that Lalit Kumar Babulal Tater and Sh. Kalpesh B Tater, Director of M/ s Meroz Exim were aware of the issuance / receipt of the SCN.

8.4 Personal hearing was granted to the all the noticees to present their defences on 29.01.2020 before Commissioner of Customs (Nhava Sheva-I), JNCH. Vaidat Legal Services (Advocates 85 Solicitors) representing all the noticees (including Lalit Kumar Babu Lal Tater, Sweety Mehra & Kalpesh B Tater) vide letter dated 09.01.2020 requested



copies of all relied upon documents bearing no. 01 to 29 as enclosed to SCN no. DRI/HQ/50D/Enq-34/2016/Pt.I-CI dated 18.09.2019 as well as other documents, which they require to prepare and present reply on behalf of notices in the personnel hearing on 29.01.2020 since they have not received the said documents earlier. Accordingly, the Relied upon documents were emailed on 16.01.2020 to the advocate Vaidat Legal Services (Advocates & Solicitors) representing the noticees including Sweety Mehra, Sh. Kalpesh B Tater (both Directors of Meroz Exim) & Lalit Kumar Babu Lal Tater.

8.5 Also, Vaidat Legal Services (Advocates & Solicitors) vide letter dated 17.01.2020 addressed to Office of Commissioner of Customs (Nhava Sheva-I), JNCH had further sought on behalf of all the noticees (including Lalit Kumar Babu Lal Tater, Kalpesh B Tater, & Sweety Mehra) certain other documents.

8.6 It is also pertinent to mention that the present writ has been filed by Vaidat Legal Services (Advocates & Solicitors) on behalf of Lalit Kumar Babu Lal Tater who had earlier sought RUDs before Commissioner of Customs (Nhava Sheva-I), JNCH on behalf of the noticees (including Sweety Mehra, Sh. Kalpesh B Tater & Lalit Kumar Babu Lal Tater) to the SCN dated 18.09.2019.

8.7 In view of above, it appears that Lalit Kumar Babu Lal Tater, Sh. Kalpesh B Tater, & Sweety Mehra, (both Directors of Meroz Exim) have received/ were well aware of the issuance of SCN.”

7. After perusing the above affidavits, the Court is fully satisfied that the service of the SCN has been effected and the raising of the plea of non-service was clearly a false one and an after-thought.
8. Under these circumstances, the writ petitions no longer survive.



9. All remedies in respect of the Orders-in-Original are left open.
10. Needless to add, in respect of the period during which the present petition remained pending before this Court, the Petitioner may pray for benefit under Section 14 of the Limitation Act, 1963 in accordance with law.
11. These petitions along with pending application(s), if any, are disposed of.

**PRATHIBA M. SINGH
JUDGE**

**SHAIL JAIN
JUDGE**

DECEMBER 11, 2025/tg/ck