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

\+ **W.P.(C) 15535/2025**

RINKU DUBEY .....Petitioner

Through: Mr. Bibek Tripathi, Mr. Ajay Kumar Shrivastav & Mr. Sudhakar Tiwari, Advs.

versus

UNION OF INDIA AND ORS. .....Respondents

Through: Mr. Shubham Tyagi, SSC, CBIC.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

ORDER

% 10.10.2025

1. This hearing has been done through hybrid mode.

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2. Allowed, subject to all just exceptions. The application is disposed of.

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3. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, *inter alia*, seeking release of the seized foreign currency of the Petitioner to the tune of 15,000 U.S. Dollars, seized by the Customs Department.

4. The Petitioner, who is an Indian citizen, was intending to depart to Bangkok *via* Mumbai by Flight No.AI 624 on 31st October 2023. A total of 15,000/- U.S. Dollars were being carried by him in a concealed form in a black trolley bag. The value of the said currency was substantial. Since the Petitioner

did not produce any documentary evidence for legal possession of the same as per the rules of the Reserve Bank of India, the same was seized. Thereafter, the statement of the Petitioner was recorded and the impugned Order-in-Original dated 24th December, 2024 (hereinafter, '*impugned order*') was passed wherein absolute confiscation of the same has been directed in the following terms:

> *"i. I order absolute confiscation of US Dollar 15000/- equivalent to INR 12,36,750/- (Twelve Lakh thirty Six Thousand Seven Hundred Fifty only) recovered and seized from the Noticee under Panchnama dated 31.10.2023, which was attempted to be exported by the Noticee during current visit (Departure), under Section 113 of the Customs Act, 1962;*
> *ii. I impose a penalty of Rs.1,30,000/- (Rupees One Lakh Thirty Thousand only) under Section 114 of the Customs Act, 1962, read with Section 13 of the Foreign Exchange Management Act, 1999 on the Noticee in respect of the confiscated Foreign Currency."*

5. Ld. Counsel for the Petitioner submits that the Petitioner could not file an appeal against the said order within time as the Petitioner had financial difficulties and he was not fully aware of the procedure to file an appeal. The only prayer he seeks is for permitting an appeal to be filed since the limitation period has expired.

6. Mr. Shubham Tyagi, ld. SSC for the Respondent submits that the period for filing an appeal is prescribed under Section 128(1) of the Customs Act, 1962 (hereinafter, '*the Act*'). In terms of the Section 128(1) of the Act, the time period for filing the appeal is 60 days and thereafter, further 60 days under the proviso.

7. Heard. This Court in ***M/s Durga Apparels Pvt. Ltd. v. Commissioner of***

Customs*, *2025:DHC:3529-DB while deciding a matter pertaining to limitation period under Section 129A of the Act *i.e.,* appeals to the Appellate Tribunal has already held that if sufficient cause is found, the Court can permit the Petitioner to approach the concerned Appellate Authority after the expiry of the limitation period. The relevant extracts of the judgment read as under:

> *"**14. This Court has considered the matter. The limitation period for filing an appeal under Section 129A of the Customs Act, 1962 is a period of three months. However, Section 129A(5) also provides that if sufficient cause is shown, the delay in filing the appeal can be condoned.***
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> *15. After hearing the above stated submissions made by the parties, there are three factors which persuade this Court to consider the issue of condonation of delay:*
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> *i. The investigation by the Directorate of Revenue Intelligence as also by the Enforcement Directorate against the Appellant which commenced in 2019 and culminated into the arrest of the Appellant on 25th September, 2021;*
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> *ii. The outbreak of the COVID-19 pandemic between 2020 to 2022 which has also been dealt with by the Supreme Court in **Re: Cognizance for extension of Limitation having Misc. Application No. 21 of 2022 in M.A. No. 665 of 2021 in Suo Moto Writ Appeal (C) No. 3 of 2020.***
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> *iii. The medical condition of the Appellant Company's Director in respect of which some records have been placed along with the present appeal.*
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> ***16. In view of the above position, this Court is of the opinion that there is sufficient cause shown by the Appellant to justify the delay in filing the appeal.***
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> *17. However, the said delay is being condoned, subject to stringent terms and conditions:*
>
> *i. The Appellant shall deposit a sum of Rs.5 lakhs as costs with the Respondent- Department.*

> *ii. No unnecessary adjournments shall be taken before CESTAT."*

8. In the present case, considering the substantial amount of foreign currency has been seized from the Petitioner, the Court is inclined to grant time to the Petitioner to avail of his appellate remedy in accordance with law.

9. Accordingly, let the appeal against the impugned Order-in-Original dated 24th December 2024, be filed by 30th November 2025. If the same is filed within the said period, it shall not be dismissed on the ground of limitation but shall be adjudicated on merits.

10. Considering the delay in the matter, the Petitioner shall deposit a sum of Rs.10,000/- as costs with the Customs Department within two weeks.

11. The petition is disposed of in the aforesaid terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

OCTOBER 10, 2025
kk/ck