$~53, 54, 56

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

Date of Decision:17th December, 2025
Uploaded on: 19th December, 2025

\+ **W.P.(C) 19145/2025**

M/S RR FASHION .....Petitioner
Through: Mr. Saurabh Kapoor, Ms. Muskaan Gupta & Ms. Tanya Kumar, Advs.

versus

UNION OF INDIA AND ORS .....Respondents
Through: Mr. RaktimGogai CGSC with Mr. Vivek Nagar GP and Mr. Kaushlendra Dutt, Adv.

54 WITH

\+ **W.P.(C) 19146/2025**

M/S YASHI FASHION .....Petitioner
Through: Mr. Saurabh Kapoor, Ms. Muskaan Gupta & Ms. Tanya Kumar, Advs.

versus

UNION OF INDIA AND ORS. .....Respondents
Through: Mr. Premtosh K Mishra CGSC with Mr. Prarabdh Tiwari & Mr. Shrey Sharma, Advs.
Mr. Rakesh Kumar, SPC with Mr. Sunil & Mr. Vivek Nagar, Advs.

56 AND

\+ **W.P.(C) 19152/2025**

M/S SS IMPEX .....Petitioner
Through: Mr. Saurabh Kapoor, Ms. Muskaan Gupta & Ms. Tanya Kumar, Advs.

versus

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

Through: Ms. Manish Jain, Senior Panel Counsel, UOI with Ms. Gulnaz Khan, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RENU BHATNAGAR

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CM APPL. 79716/2025 (for exemption)
CM APPL. 79718/2025 (for exemption)
CM APPL. 79728/2025 (for exemption)

2. Allowed, subject to all just exceptions. The applications are disposed of.

W.P.(C) 19145/2025
W.P.(C) 19146/2025
W.P.(C) 19152/2025

3. The present petitions have been filed by the Petitioners challenging *inter alia* certain seizure memos which were issued ordering seizure of goods of the Petitioners.

4. The background giving rise to these petitions is that the Petitioners had imported through four separate import orders, PVC Coated Fabrics, PVC Coated Polyester Fabric & PA Coated Fabric from a Chinese Company. The said imports were effected through the Special Economic Zone (SEZ) located in Tamil Nadu and the said goods are also presently warehoused in Tamil Nadu.

5. The DRI conducted an inspection of the imported goods and seized the goods *vide* the following seizure memos which stand challenged in the present petitions:

- *Seizure Memo dated 28th May, 2025 in **W.P.(C) 19145/2025***
- *Seizure Memos dated 16th May, 2025 and 23rd May, 2025 in **W.P.(C) 19146/2025***
- *Seizure Memo dated 6th May, 2025 in **W.P.(C) 19152/2025** (hereinafter, 'the impugned seizure memos')*

6. Though the impugned seizure memos were issued by DRI, Delhi, the same were served upon the Petitioners, who were also located in Chennai.

7. The challenge in these cases is to the impugned seizure memos, as also to the respective test reports issued by CRCL, New Delhi.

8. A preliminary objection has been taken by the Respondent to the maintainability of these petitions before this Court on the ground that the cause of action actually arises only in Tamilnadu and not in Delhi.

9. Mr. Kapoor, ld. Counsel for the Petitioner controverts this and submits that the concerned DRI is located in Delhi and the laboratory which tested the products is also in Delhi, *i.e.* CRCL, New Delhi. Hence, a part of the cause of action arises in Delhi.

10. This Court had the occasion to consider another similar matter in ***W.P.(C) 16441/2025*** titled ***"M/s Halder Enterprises Vs. Union of India &Anr."*** wherein after some hearing, the petition was withdrawn for availing of the remedies in accordance with law. The said order is extracted as under:

> *"1. This hearing has been done through hybrid mode.*
> *2. The Petitioner has filed the present writ petition under Article 226 of the Constitution of India, inter alia, seeking quashing of seizure memo dated 26th March, 2025 and 19th May, 2025 in respect of the goods imported under bill of entry nos. 7755125 dated 13th January, 2025 and 7815136 dated 16th January, 2025. Prayer in the present petition is also for*

permitting re-export of the goods to the overseas buyers and overseas suppliers as also for provisional release.
3. Mr. Anurag Ojha, ld. SSC takes a preliminary objection that the seizure of goods has taken place in Chennai, therefore, the correct forum to approach is Madras High Court. He also submits that the similarly placed Petitioners have also filed the writ petitions before the Madras High Court.
4. After making some arguments, Mr. Pradeep Jain, ld. Counsel appearing for the Petitioner submits that he wishes to withdraw the present writ petition and avail remedies in accordance with law."

11. On the other hand, reliance is placed by the ld. Counsel for the Petitioner on the judgment in ***W.P.(C) 6570/2010*** titled ***"Sterling Agro Industries Ltd Vs. UOI and Ors."*** as also in***W.P.(C) 4143/2018*** titled ***"Principal Additional Director General Directorate Of Revenue Intelligence Through Deputy Director Vs. Customs, Central Excise and Service Tax Settlement Commission, Principal Bench and Ors."*** to argue that this Court would have the jurisdiction to consider these matters.

12. Heard. The issue of jurisdiction has been settled by the Full Bench of this Court in ***W.P.(C) 6570/2010*** titled ***"Sterling Agro Industries Ltd Vs. UOI and Ors."*** wherein the Court has concluded as under:

"33. In view of the aforesaid analysis, we are inclined to modify the findings and conclusions of the Full Bench in New India Assurance Company Limited (supra) and proceed to state our conclusions in seriatim as follows:
(a) The finding recorded by the Full Bench that the sole cause of action emerges at the place or location where the tribunal/appellate authority/revisional authority is situate and the said High Court (i.e., Delhi

High Court) cannot decline to entertain the writ petition as that would amount to failure of the duty of the Court cannot be accepted inasmuch as such a finding is totally based on the situs of the tribunal/appellate authority/revisional authority totally ignoring the concept of forum conveniens.

(b) Even if a miniscule part of cause of action arises within the jurisdiction of this court, a writ petition would be maintainable before this Court, however, the cause of action has to be understood as per the ratio laid down in the case of Alchemist Ltd. (supra).

(c) An order of the appellate authority constitutes a part of cause of action to make the writ petition maintainable in the High Court within whose jurisdiction the appellate authority is situated. Yet, the same may not be the singular factor to compel the High Court to decide the matter on merits. The High Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens.

(d) The conclusion that where the appellate or revisional authority is located constitutes the place of forum conveniens as stated in absolute terms by the Full Bench is not correct as it will vary from case to case and depend upon the lis in question.

(e) The finding that the court may refuse to exercise jurisdiction under Article 226 if only the jurisdiction is invoked in a malafide manner is too restricted / constricted as the exercise of power under Article 226 being discretionary cannot be limited or restricted to the ground of malafide alone.

(f) ***While entertaining a writ petition, the doctrine of forum conveniens and the nature of cause of action are required to be scrutinized by the High Court depending upon the factual matrix of each case in view of what has been stated in Ambica Industries (supra) and Adani Exports Ltd. (supra).***

(g) The conclusion of the earlier decision of the Full Bench in New India Assurance Company Limited

<u>(supra) "that since the original order merges into the appellate order, the place where the appellate authority is located is also forum conveniens" is not correct.</u>
<u>(h) Any decision of this Court contrary to the conclusions enumerated hereinabove stands overruled."</u>

13. In addition, in ***W.P.(C) 4143/2018*** titled ***"Principal Additional Director General Directorate Of Revenue Intelligence Through Deputy Director Vs. Customs, Central Excise and Service Tax Settlement Commission, Principal Bench and Ors."*** the observations of the Court are as under:

"4. <u>Arguments on behalf of the respondents:</u>
Mr. Saurabh Kapoor, Advocate appearing for the respondent Nos.2 to 4 canvassed two preliminary objections viz. Firstly, that the present writ petition is not maintainable at the instance of DRI and could have been filed only by the Commissioner, who was seized of the show cause notice issued to the petitioner and secondly, that this Court did not possess the territorial jurisdiction to hear the matter as the show cause notices have been issued by the Office of the DRI and imports also taken place within the jurisdiction of the Punjab and Haryana. On merits learned counsel for respondents contends that the applications before the Settlement Commission had been filed as per the liberty granted by the High Court of Punjab and Haryana and in view thereof, the applications should not have been rejected on the ground of maintainability. Besides, learned counsel submits that the finding of the Settlement Commission, that, as cigarettes were not notified under Section 123 on the date of the importation by his clients, the applications filed, by them before the Settlement Commission were maintainable.

5. REASONS:

[XXX]

(d) Equally, we find no substance in the objection regarding territorial jurisdiction as advanced by learned counsel for the respondents. A Division Bench of this Court has in ***Vishnu Security Services vs. Regional Provident Fund Commissioner*** *(2012) 129 DRJ 661 (DB) has already held that, where the order of quasi judicial authority, which is being challenged, has been passed within the territorial jurisdiction of this Court, this Court would have jurisdiction to entertain the matter. Admittedly, the impugned order was passed by the Principal Bench of Settlement Commission located at New Delhi. As such, we reject the objection of territorial jurisdiction, as raised by Mr. Saurabh Kapoor, appearing on behalf of the respondents. The third proviso to Section 127B of the Customs Act states that "No application in this Section shall be made in relation to goods to which Section 123 applies". As such, maintainability of the application visa-vis notification of the goods under Section 123 of the Act, would have to be assessed on the basis of goods were so notified on the date when the application was made, and not on the date when the goods were imported. Dealing with the expression "made" as implied in Section 58(2) of the Motor Vehicles Act, 1939 which refers to renewal of a permit "on an application made and disposed of", the High Court of Allahabad in Kanchan Singh vs. S.T.A.T. Lucknow, AIR 1986 All 23 held that the word "made" means "filed" which implied receipt by the authority concerned. Similarly, dealing with expression "made" as contained in Section 66 of the Indian Income Tax Act, 1922, the High Court of Mysore held in Shanta Bai Devarao v. CIT (1962) 46 ITR 272 (Mys.) that an application under Section 66(1) of the Act can be deemed to have been „made" only when that application is received in the office of the Appellate*

Tribunal. An application posted before the expiry of period of limitation and received by the office of the Tribunal after the expiry of that period cannot be held to have been „made" within the prescribed period. Similarly, in Rishikesh v. Salma Begum, (1995) 4 SCC 718, the Hon"ble Supreme Court approved the definition "make", contained in the Collins English Dictionary has meaning "to cause to exist.. to do in form of law; to perform with due formalities; to execute in legal form; ..""

14. The Court has considered the matter. The clear pronouncement in ***Sterling Agro (supra)*** of the Full Bench is that apart from cause of action, the forum conveniens is also to be seen in such matters. Insofar as the issue of jurisdiction is concerned, the mere location of the DRI headquarters in Delhi or the laboratory in Delhi would, in the opinion of this Court, not be sufficient to constitute the cause of action, inasmuch as the subject goods were imported in Chennai, they are being stored in Chennai. Further, the samples were lifted in Chennai and they have been sent to CRCL, New Delhi merely for testing.

15. The testing laboratory is a specialised entity which could have been located anywhere across India. However, the mere fact that the testing took place in Delhi at the laboratory located here, would not amount to constitute the cause of action, insofar as the seizure is concerned.

16. The impugned seizure memos were served to the Petitioner at Chennai and the Petitioners themselves are located in Tamil Nadu. Thus, the forum convenience in such a case would have to be seen.

17. Under these circumstances, this Court is of the opinion that following the decision in ***W.P.(C) 6570/2010*** titled ***"Sterling Agro Industries Ltd Vs. UOI and Ors.",*** the petitions would not be liable to be entertained by this

Court. The Petitioner is free to approach the jurisdictional High Court.

18. The petitions are accordingly dismissed, with liberty to the Petitioners to avail of remedies in accordance with law, before the appropriate High Court/ forum.

19. Accordingly, the petitions are disposed of in these terms. All pending applications if any are also disposed of.

PRATHIBA M. SINGH
JUDGE

RENU BHATNAGAR
JUDGE

DECEMBER 17, 2025/*pd/ss*