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

\+ **CUSAA 272/2018 & CM APPL. 42126/2018, CM APPL. 42402/2025**

AVTAR SINGH BEDI .....Appellant

Through: Mr. Deepak Gandhi, Mr. Riccky Choudhary & Mr. Prateek Bhadana, Advs.

versus

PRINCIPAL COMMISSIONER OF CUSTOMS (IMPORT) & ORS. .....Respondents

Through: Mr. Harpreet Singh, SSC with Mr. Jai Ahuja & Mr. Sanidhya, Avs.
Mr. Satish Aggarwala, Sr. Standing Counsel with Mr. Gagan Vaswani and Mr. Prashant Kumar Vashishtha, Advocates for Respondent No.2/DRI

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

O R D E R

% 12.08.2025

1. This hearing has been done through hybrid mode.

2. The present appeal has been filed by the Appellant seeking directions for setting aside the final order dated 2nd November, 2017, passed by the Customs Excise and Service Tax Appellate Tribunal ('CESTAT')and for seeking appropriate directions for remanding the case for fresh adjudication before the Adjudicating Authority, Customs Department.

3. In this case, an application being ***CM APPL. 42402/2025*** under Order VI Rule 17, CPC has been filed by the Appellant seeking to add further grounds to this appeal.

4. The appeal itself challenges the final order dated 2nd November, 2017

passed by CESTAT by which the Appellant's appeal challenging the Order-in-Original dated 30th April, 2015 was dismissed.

5. One of the grounds raised in this case was in respect of the powers of the DRI officials under Section 2(34) of the Customs Act, 1962 and whether they are *proper officers* or not. This issue now stands adjudicated by the Supreme Court in ***Canon India Pvt. Ltd. v. Commissioner of Customs, 2021 (18) SCC 563*** (*hereinafter 'Canon-I'*) which was thereafter reviewed by the Supreme Court in ***Review Petition No. 400/2021*** titled ***Commissioner of Customs v. M/s Canon India Private Limited*** *(hereinafter "Canon - II")*. In Canon-II, the Supreme Court has categorically held that DRI officers would be the proper officers. The relevant portion of the said judgment is set out below:

> *"**168**.In view of the aforesaid discussion, we conclude that: [...]*
> ***<u>(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:</u>***
> *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. In this appeal, on 10th May, 2022, both the ld. Counsels for the parties had submitted that the matter ought to await the decision in Canon-II. Now that the said decision has been pronounced by the Supreme Court, the present appeal deserves to be remanded back for fresh consideration by the CESTAT.

7. Accordingly, the present appeal is allowed. The order of the CESTAT is set aside. The appeal of the Appellant being ***C/52204/2015*** titled ***Shri Awtar Singh Bedi v. Commissioner of Customs, Delhi 11*** is restored to its original number before CESTAT.

8. Let the parties appear before the CESTAT on 11th September, 2025.

9. Appeal is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

AUGUST 12, 2025
Rahul/ss