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

% *Date of Decision: 14.05.2026*

+ **LPA 346/2026, CM Nos.31207/2026 & 31208/2026**

RECKITT BENCKISER INDIA PRIVATE LIMITED.....Appellant

Through: Mr. Arvind P. Datar, Sr. Adv. with
Mr. R. Jawahar Lal & Mr. Sayyam
Maheshwari, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Shiva Lakshmi & Mr. Pravar
Dennison, Advs. for UOI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJAS KARIA

DEVENDRA KUMAR UPADHYAYA, CJ (Oral)

1. Heard Mr. Arvind P. Datar, learned Senior Counsel assisted by Mr. R. Jawahar Lal, learned Counsel for the Appellant and Ms. Shiva Lakshmi, learned Counsel representing the Respondents.

2. This intra-court Appeal seeks to take exception to the Order dated 28.03.2026 (“**Impugned Order**”) passed by learned Single Judge whereby W.P.(C) No.13869/2024 (“**Writ Petition**”) instituted by the Appellant has been disposed of by relegating the Appellant to take recourse to the appellate remedy under Section 15(1)(b) of the Foreign Trade (Development and Regulation Act, 1991 (“**Act**”).



3. Under challenge before the learned Single Judge was an order dated 27.08.2024 passed by the Deputy Director of Foreign Trade whereby the Service Exports from India (“SEIS”) scrips issued to the Appellant under the Free Trade Policy 2015-2020 were cancelled and a penalty of ₹10,00,000/- was imposed on the Appellant for obtaining the said scrips by misdeclaration. Another prayer made in the Writ Petition before the learned Single Judge was for setting aside the communication dated 12.09.2024 whereby the Appellant was informed of its inclusion in the “Denied Entity List”.

4. The learned Senior Counsel for the Appellant states that insofar as the Impugned Order cancelling the scrips and imposing penalty on the Appellant is concerned, the Appellant shall take recourse to the appropriate statutory remedy available under Section 15 / 16 of the Act. He, however, submits that relegating the Appellant to take recourse to the appellate remedy even against the Order dated 12.09.2024 by the learned Single Judge is not sustainable for the reason that the said order / communication dated 12.09.2024 was passed in flagrant violation of the principles of natural justice.

5. The learned Senior Counsel for the Appellant draws our attention to the Impugned Order passed by the learned Single Judge where no discussion about availability / non-availability of alternate appellate / review remedy in respect of the Communication dated 12.09.2024 has been made. His submission is that the prayer relating to quashing of the Communication dated 12.09.2024 has not been adjudicated upon by the learned Single Judge. Referring to the provision of Section 7 of the Act, it has been stated



by the learned Senior Counsel for the Appellant that without an Importer-exporter Code (“IEC”) Number, no one is legally authorized either to import or export any goods in India and further that such IEC Number is granted by the Director General or any other officer authorized by him in this behalf, as per the procedure prescribed for the said purpose. It has been stated that the Appellant has been in the business of import / export for last 22 years and the Communication dated 12.09.2024 cancelling the IEC Number of the Appellant, which was duly allotted to it, is not only in flagrant violation of the principles of natural justice, but also of statutory requirement as provided in Section 8 of the Act.

6. His submission, thus, is that though remedy under Article 226 of the Constitution of India is discretionary and ordinarily a writ petition ought not be entertained in the wake of availability of a statutory and equally efficacious remedy, however, there are certain exceptions where even in the wake of availability of statutory remedy, the writ petition instituted under Article 226 of the Constitution of India ought to be entertained and appropriate orders be passed. He states that as laid down in *Whirlpool Corporation v. Registrar of Trade Marks, Mumbai & Ors., (1998) 8 SCC 1* one of the exceptions for this Court to entertain a writ petition under Article 226 of the Constitution of India where an alternative statutory remedy is available is in case where the action complained of is in violation of principles of natural justice.

7. The learned Counsel appearing for the Respondents, however, stated that insofar as the Order dated 27.08.2024 cancelling the scrips and imposing penalty on the Appellant is concerned, opportunity of hearing was



granted to the Appellant and, therefore, there is no illegality in the said order. However, it could be disputed by the learned Counsel for the Respondents that Order dated 27.08.2024 may be subjected to challenge by the Appellant by taking recourse to the remedy available under Section 15 / 16 of the Act.

8. As regards the Communication dated 12.09.2024, which was also challenged before the learned Single Judge in the proceedings of the Writ Petition, nothing could be pointed out on behalf of Respondents demonstrating that adequate and effective opportunity of hearing was afforded to the Appellant before passing the said order / issuing the Communication dated 12.09.2024.

9. At this juncture, our attention has been drawn to a Show Cause Notice dated 30.10.2023 (“SCN”) which has been annexed as Annexure A-14 to the Appeal and on the said basis, it has been stated that Clause 8(c) of the said SCN clearly required the Appellant to show cause as to why appropriate orders in respect of IEC may not be passed. On the aforesaid count, it has been argued by learned Counsel for the Respondents that there is no violation of the principles of natural justice. She has also stated that Clause 9 of the said SCN dated 30.10.2023 also provided an opportunity of hearing to the Appellant as well and, therefore, the Communication dated 12.09.2024 cannot be said to have been passed or issued without observing the principles of natural justice.

10. Having heard the learned Counsel for the Parties, we are of the opinion that so far as the challenge to the Impugned Order cancelling the scrips and imposing penalty on the Appellant is concerned, the Appellant



has rightly been relegated to the statutory remedy available under Section 15 / 16 of the Act and, therefore, we reiterate the order passed by learned Single Judge in this regard. We, thus, provide that in case such a remedy is availed by the Appellant within three weeks from today, the same shall be considered and decided expeditiously in accordance with law by the appropriate authority.

11. It is needless to observe that all the issues, which may be available to the Parties under law, are kept open to be urged before the statutory authority under Section 15/16 of the Act.

12. So far as the issue relating to the Communication dated 12.09.2024 is concerned, we may refer to the provision of Section 8 of the Act, which provides for suspension / cancellation of Importer-exporter Code Number. Section 8 of the Act is reproduced below:

“8. Suspension and cancellation of Importer-exporter Code Number.—1 [(1) Where—

(a) any person has contravened any of the provisions of this Act or any rules or orders made thereunder or the foreign trade policy or any other law for the time being in force relating to Central excise or customs or foreign exchange or has committed any other economic offence under any other law for the time being in force as may be specified by the Central Government by notification in the Official Gazette; or

(b) the Director General or any other officer authorised by him has reason to believe that any person has made an export or import in a manner prejudicial to the trade relations of India with any foreign country or to the interests of other persons engaged in imports or exports or has brought disrepute to the credit or the goods of, or services or technology provided from, the country; or

(c) any person who imports or exports specified goods or services or technology, in contravention of any provision of this Act or any rules or orders made thereunder or the foreign trade policy,



the Director General or any other officer authorised by him may call for the record or any other information from that person and may, after giving to that person a notice in writing informing him of the grounds on which it is proposed to suspend or cancel the Importer-exporter Code Number and after giving him a reasonable opportunity of making a representation in writing within such reasonable time as may be specified in the notice and, if that person so desires, of being heard, suspend for a period, as may be specified in the order, or cancel the Importer-exporter Code Number granted to that person.

(2) Where any Importer-exporter Code Number granted to a person has been suspended or cancelled under sub-section (1), that person shall not be entitled to 2 [import or export any goods or services or technology] except under a special licence, granted, in such manner and subject to such conditions as may be prescribed, by the Director General to that person.”

13. A perusal of the afore-quoted Section 8 of the Act reveals that suspension and cancellation of IEC Number can be resorted to where any person has contravened any of the provisions of the Act or any Rules or orders made thereunder or the foreign trade policy or any other law for the time being in force relating to central excise or customs or foreign exchange or has committed any other economic offence under any other law for the time being in force as may be specified by the Central Government. Section 8 of the Act further provides that suspension / cancellation of the IEC Number can also be resorted to in case the Director General, or any other officer authorized by him, has reasons to believe that any person has made an export or import in a manner prejudicial to the trade relations of India with any foreign country or to the interests of other persons engaged in imports or exports or has brought disrepute to the credit or the goods of or services or technology provided or the foreign trade policy. Such measure can also be resorted to in case any person who imports or exports specified



goods or services in contravention of any provisions of the Act or Rules or orders made thereunder or the foreign trade policy.

14. Section 8 of the Act further provides that in case suspension / cancellation of the IEC Number is intended, the Director General of Foreign Trade or an officer authorized by him in this behalf may call for the records or any other information from the person concerned and may after giving that person a notice in writing informing him of the grounds on which it is proposed to suspend / cancel the IEC Number and further after giving him a reasonable opportunity of making a representation in writing, may suspend or cancel the IEC Number.

15. Thus, the principles of natural justice are fully embodying in Section 8 of the Act wherein action of suspension / cancellation of IEC Number can be resorted to only after issuance of SCN, that too, by mentioning the grounds of intended action and further by affording an opportunity of making a representation and hearing. On perusal of the Communication dated 12.09.2024, which was challenged before the learned Single Judge in the proceedings of Writ Petition, what we find is that the Communication dated 12.09.2024 only mentions that the IEC 0288022912 / Licence Number 0511013855 has been marked to “Denied Entity List”. The said Communication does not disclose any reason; neither does it mention anything about the factum of having been issued a SCN or having afforded an opportunity to the Appellant of making a representation and hearing in terms of Section 8 of the Act.

16. As per the statutory requirement of Section 7 of the Act, any person or entity is not authorized to engage in the business of import or export without



obtaining the Importer-exporter Code Number and in a situation where such IEC Number is marked to “Denied Entity List”, such an entity in respect of which such communication is issued is legally barred from making any exports or imports.

17. Such a marking, as has been made by the Communication dated 12.09.2024, not only deprives the person who was having a valid IEC Number, to engage in the business of import and export, but also deprives the said person / entity of certain incentives / benefits which may be available under various schemes. In such a situation, any marking of an importer / exporter to “Denied Entity List” virtually amounts to civil death and, therefore, the legislature has been conscious enough to have taken an adequate safeguard by enacting Section 8 of the Act, which unambiguously provides for not only issuance of SCN by mentioning the grounds of intended action of suspension / cancellation, but also affording an opportunity of making a representation and hearing to the person / entity concerned.

18. So far as the submission made by learned Counsel for the Respondents, based on the SCN dated 30.10.2023, is concerned, we may note that Section 8(c) of the Act does not talk about intended action of cancellation, it only talks about “suspension”. Further, the requirement of communicating the grounds of intended action of cancellation is also missing in the said SCN and, therefore, so far as the Communication dated 12.09.2024 is concerned, the said SCN cannot be construed to mean that it met the requirement of Section 8 of the Act.



19. The learned Counsel for the Respondents has, lastly, made an attempt to submit that merely because the Appellant has been marked to “Denied Entity List”, the same will not amount to cancellation of IEC Number. Such a statement in our considered opinion is highly misconceived. Had the said marking been for a temporary period of time, such period ought to have been indicated in such marking for all practical purposes. After the Communication dated 12.09.2024, the Appellant cannot indulge in any kind of export or import in absence of IEC as per Section 7 of the Act. Accordingly, such a submission in our opinion is highly misconceived.

20. For the reasons stated above, we have no hesitation to hold that the Communication dated 12.09.2024 was issued not only in flagrant violation of principles of natural justice, but also in complete derogation of the provisions of Section 8 of the Act. We have also noticed that so far as the prayer relating to quashing of the Communication dated 12.09.2024 is concerned, the Impugned Order does not adjudicate the said prayer at all.

21. In view of the aforesaid, the Communication dated 12.09.2024 is not sustainable for want of observation of principles of natural justice as also for flagrantly violating the statutory requirements embedded in Section 8 of the Act. Accordingly, the Communication dated 12.09.2024 is hereby quashed.

22. It will, however, be open to the Respondents to initiate proceedings against the Appellant afresh under Section 8 of the Act by issuing a SCN fulfilling the requirement of the said provision and by providing adequate opportunity of making a representation in writing and affording a hearing as well, to the Appellant.



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23. The Impugned Order dated 28.03.2026 passed by learned Single Judge is modified to the extent aforesaid.

24. The Appeal stands disposed of in the aforesaid terms. Pending Applications also stand disposed of. No order as to costs.

DEVENDRA KUMAR UPADHYAYA, CJ

TEJAS KARIA, J

MAY 14, 2026
'gsr'