



2025:DHC:2557-DB



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 8th April, 2025

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W.P.(C) 4496/2025

RAJBIR SINGH

.....Petitioner

Through: Mr. Anurag Soan, Advocate.
versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Arnav Kumar, CGSC with Mr. Priyam Gandhi and Ms. Savi Garg, Advocates for R-UOI.
Mr. Gibran Naushad, Sr. Standing Counsel with Mr. Harsh Singhal and Mr. Suraj Shekhar Singh, Advocates for R-2.
Mr. Avijit Dikshit, Standing Counsel for R-4 & 5.
Mr. Jatin Singh, Sr. Standing Counsel with R-7.**CORAM:****JUSTICE PRATHIBA M. SINGH****JUSTICE RAJNEESH KUMAR GUPTA****Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.

CM APPL. 20779/2025 (for exemption)

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

W.P.(C) 4496/2025, CM APPLs. 20778/2025 & 20780/20253. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, seeking quashing of the Show Cause Notices dated 14th January, 2021 and 30th December, 2021 (hereinafter '*impugned*')



SCNs’) as well as Order-in-Original dated 14th January, 2025 (hereinafter ‘*impugned OIO*’).

4. The present case revolves around the Duty Drawback Scheme (hereinafter ‘*Scheme*’) which is a unique scheme administrated by the Government. This scheme allows refund or recoupment of customs and excise duties that are paid by the exporters on products which are exported. The purpose is to encourage exports and to enable exporters to set off some of the costs accrued in the process of manufacturing the products which are exported. Even after the introduction of Integrated Goods and Service Tax (hereinafter ‘*IGST*’) regime, this scheme had been continued in respect of IGST and Compensation Cess which may have been paid by the exporters. The said duty drawbacks are claimed under Sections 74 and 75 of the Customs Act, 1962.

5. This scheme, however, has become the subject of misuse by some traders/ exporters who make fraudulent exports merely with a view of availing the benefits under the scheme. Fraudulent exports could be in various forms including (i) filing of fake documents, (ii) over-valuation of goods that have been exported and (iii) the exporters themselves being completely non-existent *etc.*, Several cases have come before the Court where such duty drawbacks have, in fact, been availed of, which is detected by the Customs Department subsequently.

6. The present case is one such case where the exporter M/s. Abhishek EXIM India, is stated to have exported goods and claimed duty drawback in respect thereof. The Petitioner is the proprietor of M/s Abhishek EXIM, India. He was issued the impugned SCNs with regard to the duty drawbacks claimed by him.



7. A perusal of the impugned SCNs reveal that the primary allegation against the Petitioner and his company is that he created parallel invoices with different valuations for the same exports. One set of invoices was submitted to the Delhi Chamber of Commerce and the other set, with the overvalued price, was submitted to the Department only with the intention to claim a higher duty drawback. The entire process is alleged to have been executed by the Petitioner in connivance with two staff members including a Chartered Accountant (hereinafter, 'CA').

8. Upon the issuance of the impugned SCNs, the Petitioner participated in the proceedings. In his reply, the stand of the Petitioner was that the shipping bills were duly endorsed by the Assessing Officer and there was application of mind at the time of the exports. Other than this limited submission on merits, the reply has only dealt with various technical issues, including issues of jurisdiction. The Court has seen the reply and there is no specific answer by the Petitioner to the allegations regarding parallel invoices.

9. No issue of the limitation was raised by the Petitioner in the reply. The impugned OIO was passed on 14th January, 2025. In terms of the said order, the value of the exports was considered and upon being found to be overvalued, the recovery of drawback amounts was directed along with penalties. The operative portion of the order:

“ORDER

(a) In respect of Show Cause Notice No. VHI/ICD/6/TKD/SUB-Exp/DRI-SCN/ Abhishek/85/2020 dated 14.01.2021.

(i) I hereby reject the total declared value of 21,31,23,362/- in respect of 47 Shipping Bills exported from ICD-Tughlakabad(Export) in terms of Rule 8 of the Customs



Valuation (Determination of Value of Export Goods) Rules, 2007 and I re-determine the total FOB value at Rs. 4,22,42,775/- in respect of 47 Shipping Bills exported from ICD-Tughlakabad (Export) in terms of Rule 5 and Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962.

(ii) I order for recovery of duty drawback amount of **Rs. 1,85,84,666/- (Rs. 83,30,980/- Plus Rs. 1,02,53,686/- considering eligible drawback as Rs. Zero in case where no remittance has been received)** under the provisions of Rule 16 and 16A of the Customs, Central Excise Duties and Service Tax Drawback (Amendment) rules, 2000 read with proviso to Section 75 of the Customs Act, 1962, along with interest under the provisions of Section 75A(2) of the Customs Act, 1962 as detailed above.

(iii) I hold that the goods having declared FOB value **Rs. 21,31,23,362/- (Rupees Twenty One Crores Thirty One Lakhs Twenty Three Thousand Three Hundred Sixty Two Only)** are liable for confiscation under the provisions of Section 113(i) of the Customs Act, 1962 read with Section 11 of the Foreign Trade (Development & Regulation) Act, 1992, Rule 11 and 14(2) of the Foreign Trade(Regulation) Rules, 1993 and provisions of Section 50(2) of the Customs Act, 1962. As, the goods were not seized under Section 110 of the Customs Act, 1962, therefore, I, refrain from imposing redemption fine under Section 125 of the Customs Act, 1962.

(iv) I order for appropriation of **Rs. 30,00,000/- (Rupees Thirty Lakhs only)** which were voluntarily deposited during the course of investigation towards adjustment of excess/inadmissible duty drawback amounting to Rs. 1,85,84,666/-.

(v) I impose penalty of **Rs. 10,00,000/- (Rupees Ten Lakhs only)** under Section 114(iii) of the Customs Act, 1962 upon the exporter M/s Abhishek Exim India.



(vi) I impose penalty of **Rs. 10,00,000/- (Rupees Ten Lakhs only)** under Section 114AA of the Customs Act, 1962 upon the exporter M/s Abhishek Exim India.

(vii) I impose penalty of **Rs. 5,00,000/- (Rupees Five Lakhs only)** under Section 114(iii) of the Customs Act, 1962 upon Shri Manoj Goyal Proprietor of M/s MA Enterprises, M/s MB Fabric and Mis JJ International.

(viii) I impose penalty of **Rs. 5,00,000/- (Rupees Five Lakhs only)** under Section 114AA of the Customs Act, 1962 upon Shri Manoj Goyal Proprietor of M/s MA Enterprises, M/s MB Fabric and M/s JJ International.

(ix) I impose penalty of **Rs. 5,00,000/- (Rupees Five Lakhs only)** under Section 114(iii) of the Customs Act, 1962 upon Shri Yogendra Singh Balyan, husband of Smt. Anita Chaudhary (Proprietor) of Mis Balyan Associates.

(x) I impose penalty of **Rs. 5,00,000/- (Rupees Five Lakhs only)** under Section 114AA of the Customs Act, 1962 upon Shri Yogendra Singh Balyan, husband of Smt Anita Chaudhary (Proprietor) of M/s Balyan Associates.

(xi) I impose penalty of **Rs. 1,00,000/- (Rupees One Lakh only)** under Section 114(iii) of the Customs Act, 1962 upon Shri Rajiv Soni, CHA, M/s Triveni Cargo.

(xii) I impose penalty of **Rs. 1,00,000/- (Rupees One Lakh only)** under Section 114AA of the Customs Act, 1962 upon Shri Rajiv Soni, CHA, Mis Triveni Cargo.

(b) In respect of Show Cause Notice No. 25/RB/JC/ACE/2021 Dated 30.12.2021.

(i) I hereby reject the total declared value of Rs. 2,15,31,800/- in respect of 37 Shipping Bills exported from Air Cargo Customs (Export) in terms of Rule 8 of the Customs Valuation



(Determination of Value of Export Goods) Rules, 2007 and I re-determine the total FOB value at Rs. 78, 17,9311- in terms of Rule 5 and Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962.

*(ii) I order for recovery of duty drawback amount of **Rs. 10,28,836/-** (Rs. 8,84,334/- Plus Rs. 1,44,5021-considering eligible drawback as Rs. Zero in case where no remittance has been received) under the provisions of Rule 16 and 16A of the Customs, Central Excise Duties and Service Tax Drawback (Amendment) rules, 2000 read with proviso to Section 75 of the Customs Act, 1962, along with interest under the provisions of Section 75A(2) of the Customs Act, 1962 as detailed above.*

*(iii) I hold that the goods having declared FOB value **Rs. 2,15,31,800/- (Rupees Two Crores Fifteen Lakh Thirty One Thousand Eight Hundred Only)** are liable for confiscation under the provisions of Section 113(i) of the Customs Act, 1962 read with Section 11 of the Foreign Trade (Development & Regulation) Act, 1992, Rule 11 and 14(2) of the Foreign Trade(Regulation) Rules, 1993 and provisions of Section 50(2) of the Customs Act, 1962. Though, the goods were not seized under Section 110 of the Customs Act, 1962, therefore, I, refrain from imposing redemption fine under Section 125 of the Customs Act, 1962.*

*(iv) I impose penalty of **Rs. 5,00,000/- (Rupees Five Lakhs only)** under Section 114(iii) of the Customs Act, 1962 upon the exporter Mis Abhishek Exim India.*

*(v) I impose penalty of **Rs. 5,00,000/- (Rupees Five Lakhs only)** under Section 114AA of the Customs Act, 1962 upon the exporter M/s Abhishek Exim India.*

*(vi) I impose penalty of **Rs. 5,00,000/- (Rupees Five Lakhs only)** under Section 114(iii) of the Customs Act, 1962 upon Shri Manoj*



Goyal Proprietor of M/s MA Enterprises, M/s MB Fabric and M/s JJ International.

*(vii) I impose penalty of **Rs. 5,00,000/- (Rupees Five Lakhs only)** under Section 114AA of the Customs Act, 1962 upon Shri Manoj Goyal Proprietor of M/s MA Enterprises, M/s MB Fabric and M/s JJ International.*

*(viii) I impose penalty of **Rs. 1,00,000/- (Rupees One Lakh only)** under Section 114(iii) of the Customs Act, 1962 upon Shri Yogendra Singh Balyan, husband of Smt Anita Chaudhary (Proprietor) of M/s Balyan Associates.*

*(ix) I impose penalty of **Rs. 1,00,000/- (Rupees One Lakh only)** under Section 114AA of the Customs Act, 1962 upon Shri Yogendra Singh Balyan, husband of Smt Anita Chaudhary (Proprietor) of Mis Balyan Associates.*

*(x) I impose penalty of **Rs. 50,000/- (Rupees Fifty Thousand only)** under Section 114(iii) of the Customs Act, 1962 upon Shri Rajiv Soni, CHA, M/s Triveni Cargo.*

*(xi) I impose penalty of **Rs. 50,000/- (Rupees Fifty Thousand only)** under Section 114AA of the Customs Act, 1962 upon Shri Rajiv Soni, CHA, M/s Triveni Cargo.”*

10. The contention of Id. Counsel for the Petitioner is that the exports dated back to 2013-15 and the impugned SCNs have been issued only in 2021. This, according to the Petitioner, is beyond the period of limitation as laid down by the Gujarat High Court in -

*(i) **M/s S.J.S. International vs. Union of India (R/Special Civil Application No. 20484 of 2019 decided on 9th December, 2021)** and*

*(ii) **Raghav International Through Proprietor Vishal Bharatbhushan Jain & Others vs. Union of India & Anr (R/Special Civil Application No. 7165 of 2021 decided on 22nd February, 2023)***



11. Mr. Gibran Naushad, Id. SSC appearing for Respondent No. 2, submits that the issue of limitation that is being argued today has not been pressed in the reply filed in the Show Cause Notice proceedings. He further submits that the present order is appealable under Section 128 of the Customs Act, 1962 and the Petitioner deserves to be relegated to the concerned Appellate Authority.

12. It is further pointed out that this Court, in fact, had the occasion to consider the impugned SCN, in another writ petition, being **W.P.(C) 3012/2025** titled '**Yogendra Singh Balyan v. Union of India & Ors**'. Ld. SSC submits that the said writ petition was filed by the CA Mr. Yogender Singh Balyan, who was a co-noticee against whom certain penalties *etc.*, were imposed *vide* the impugned OIO. In the said writ, this Court *vide* order dated 10th March, 2025, has already relegated the co-noticee to avail the appellate remedy.

13. Mr. Anurag Soan, Id. Counsel for the Petitioner countering the above submission states that in **W.P.(C) 3012/2025**, Rule 16 of the Customs Central Excise Duties and Service Tax Drawback Rules, 1995 (hereinafter '**Duty Drawback Rules**') was not challenged.

14. The Court has considered the matter and heard the Counsels for the parties. Firstly, on the aspect of limitation, the relevant rule, *i.e.*, Rule 16 of the Duty Drawback Rules, 1995 based on which the proceedings against the Petitioner has been initiated, reads as under:

“RULE 16 Repayment of erroneous or excess payment of drawback and interest. - Where an amount of drawback and interest, if any, has been paid erroneously or the amount so paid is in excess of what the claimant is entitled to, the claimant shall, on demand by a proper officer of Customs repay the amount so



paid erroneously or in excess, as the case may be, and where the claimant fails to repay the amount it shall be recovered in the manner laid down in sub-section (1) of section 142 of the Customs Act, 1962 (52 of 1962).”

15. A perusal of the above provision reveals that there is no specific period of limitation prescribed for proceeding against availing of excess duty drawback.

16. With that said, it is relevant to point out that the impugned SCNs have been issued based on documents recovered from the Petitioner as also received from the Delhi Chamber of Commerce. For *eg.*, in the invoice related to the export of soccer balls/ sports goods, the two recovered parallel invoices placed on record *prima facie*, reveal the manner in which the goods were being over-valued by the Petitioner. For the sake of ready reference, the said invoices are set out below:



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**Invoice submitted to the Customs Department:**

INVOICE		
Exporter ASHISHEX EXIM INDIA 847/2A OPP. NEAR METRO HOTEL MAIN MATA CHOWK VASANT KUNJ ROAD MAHIPAL PUR NEW DELHI 110037		INVOICE NO.: AEM0029/2014-18 INVOICE DATE: 16.05.2014 Buyer Order No & Dts N/A Other Reference(s) AD CODE NO: 8390061
CONSIGNEE AL THANIA GENERAL TRADING LLC P.O. BOX 35549 DEIRA DUBAI, U.A.E. BILL TO STAR HORSE GENERAL TRADING LLC P.O. BOX NO-381298 DUBAI, U.A.E.		Ref No I.E.C NO.6613369652 Buyer (if other than Consignee) Country of Origin INDIA Country of Final Destination UAE
Pre-Carriage by TRUCK	Place of Receipt by Pre-Carrier NEW DELHI	Terms of Delivery, Payment DA 100
BY SEA	Port of Loading ICD TKD NEW DELHI	
Port of Discharge JEBEL ALI	Final Destination UAE	

JEBEL ALI		TURNS		I		Quantity	Rate	Amount
Marks & Nos.	No. & Kind of Pkgs	Description						
CONTAINER NO.	OF PKGS.	OF GOODS				PCS	USD	USD
DESCRIPTION								
NO. OF CARTONS 289 TO 394 = 99 CTN								
SPORTS GOODS INFLATABLE SOCCER BALLS MADE OF POLYURETHANE						8760 PCS	9.76	85472.00
H.S. CODE 95060200								
FREIGHT TO BE ADDED								169.00
						8760 PCS		85641.00
TOTAL G&F USD FIFTY SIX THOUSAND THIRTY TWO ONLY.								
TOTAL PCS						8760		
TOTAL BOX						99		
GROSS WT: 1728.00 KGS. NET WT: 1636.00 KGS								
COUNTRY OF FINAL DESTINATION :U.A.E								
Declaration We declare that this invoice shows the actual price of goods described and that all particulars are true and correct						FOR ASHISHEX EXIM INDIA AUTHORISED SIGNATORY		



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**Invoice submitted to the Delhi Chamber of Commerce:**

1. Goods consigned from (Exporter's business name, address, country) M/S ABHISHEK EXIM INDIA 847/2A OPP. NEAR METRO HOTEL MAIN MATA CHOWK VASANT KUNJ ROAD MAHIPAL PUR NEW DELHI-110037			Reference No. 1228871		
2. Goods consigned to (Consignee's name, address, country) AL THANIA GENERAL TRADING LLC P.O. BOX 35549 DEIRA DUBAI UAE			CERTIFICATE OF ORIGIN (NON PREFERENTIAL) (Combined Declaration and Certificate) Issued in India  DELHI CHAMBER OF COMMERCE ESTD. 1950 48, RANI JHANSI ROAD, NEW DELHI-110055 PH : 23818421, 23515826-23516094, 23812367 FAX : 91-11-23828847, 23522816 E-Mail : dcchd@delhiexim.gov.in		
3. Means of transport and route (as far as known) BY ROAD: NEW DELHI TO MUMBAI BY SEA: MUMBAI TO JEBEL ALI/UAE			4. For official use		
5. Item No. 1	6. Marks and number of packages 96 CTNS 96 CARDBOARD CTNS CONTAINING NOS. 289 TO 384	7. Number and Kind of packages, Description of goods SPORTS GOODS INFLATABLE SOCCER BALLS MADE OF POLYURETHANE HLS CODE 95066290	8. Origin criteria INDIAN	9. Gross weight or other Quantity 5760 PCS	10. Number and date of Invoice AEI/0029/14-15 DT. 15.05.2014
11. Certification I, the undersigned hereby certify that the goods have been examined at the place of export and the origin of the goods is correct.  (JASPREM SINGH) Asst. Secretary DELHI CHAMBER OF COMMERCE NEW DELHI, INDIA			12. Declaration by the exporter The undersigned hereby declares that the above details and statements are correct; that all the goods were produced in India and that they comply with the origin requirements for exports to (Importing country) For ABHISHEK EXIM INDIA  NEW DELHI 05.06.2014 AUTH SIGN Place, Date & Signature and stamp of authorised signatory		



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INVOICE						
Exporter ASHISHEK EXIM INDIA B47 OPP. NEAR METRO HOTEL MAIN MATA CHOKK VASANT KUNJ ROAD MAHIPAL PUR NEW DELHI: 110027			INVOICE NO.: AEMV022214-18		Ref No	
			INVOICE DATE: 16.06.2014		I.E.C. NO. 0813659652	
CONSIGNEE AL THANIA GENERAL TRADING LLC P.O. BOX. 35541 DUBAI DUBAI UAE			Buyer Order No & Date		H.A.	
			Other Reference(s)		AD CODE NO: 819081	
			Buyer (if other than Consignee)			
			Country of Origin		Country of Final Destination	
Pre-Carriage by TRUCK			Place of Receipt by Pre-Carrier		Terms of Delivery/ Payment	
BY SEA			Port of Loading		DA 180	
Port of Discharge			Final Destination			
JEREB ALI			UAE			
Tare & Nos.		No. & Kind of Package	Description	Quantity	Rate	Amount
CONTAINER NO.		OF PKGS.	OF GOODS	PCS	USD	USD
DESCRIPTION						
NO. OF CARTONS 189 TO 384 = 96 CTN						
SPORTS GOODS INFLATABLE SOCCER BALLS MADE OF POLYURETHANE				5760 PCS	0.51	2937.60
H.S. CODE 95060290						
FREIGHT TO BE ADDED						180.00
				5760 PCS		2937.60
TOTAL GRT USD TWO THOUSAND ONE HUNDRED SEVENTY SIX ONLY.						
TOTAL PCS 5760						
TOTAL BOX 96						
GROSS WT: 1728.00 KGS. NET WT: 1638.00 KGS						
COUNTRY OF FINAL DESTINATION: UAE						
Declaration We declare that this invoice shows the actual price of goods described and that all particulars are true and correct.				FOR ASHISHEK EXIM INDIA 1228871		

06/03/2020
ASHISHEK SINGH
Asst. Secretary
Delhi Chamber of Commerce
New Delhi





17. As can be seen from the above two invoices, the same product, *i.e.*, inflated soccer balls made of Polyurethane, are valued at 0.36 USD in one invoice and 9.70 USD in the other. This, in essence, shows an overvaluation of the product to the tune of approximately 27 times the original value *i.e.*, an increase of 2700%(approx.). The total value of the invoice with the original price is 2176 USD whereas the value of the invoice with the over-valued price is 56,032 USD.

18. Therefore, there is no doubt that the former set of invoices was submitted to the Delhi Chamber of Commerce, and the latter set was filed to the Department. The difference might have come to the notice of the Department much later after the assessment was conducted. Accordingly, the issuance of the impugned SCN cannot be held to be barred by limitation.

19. On duly considering the above aspect and the fact that Rule 16 of the Drawback Rules does not prescribe any limitation, the Court is of the opinion that in the absence of a prescribed period of limitation being provided by the statute, the general limitation period of three years cannot be presumed to apply by default, especially when there are strong suspicions as to the fraudulent availment of duty drawbacks and knowledge of such availment is acquired much later.

20. With that said, the Court has also considered the following circumstances:

- (i) Creation of fake and fraudulent invoices being the basis of the SCN;
- (ii) A substantial amount of duty drawbacks has been alleged to have been availed of by the Petitioner by completely altering the value of the exports;



- (iii) No reply on merits being forthcoming from the Petitioner
- (iv) The existence of the parallel invoices is not even being disputed. Ld. Counsel for the Petitioner, in fact, confirms the allegation when a question is put by the Court today.

21. On Considering the above aspects, the Court is not inclined to entertain the challenge to the impugned OIO dated 14th January, 2025 in a writ petition under Article 226 of the Constitution of India.

22. However, it is relevant to note that this Court *vide* order dated 10th March, 2025 in ***W.P.(C) 3012/2025*** has, in fact, relegated the co-noticee to avail the statutory appellate remedy. Further, the Coordinate Bench of this Court in ***Commr. of Customs v. Sans Frontiers, (2023 SCC OnLine Del 7913)*** where a similar issue of limitation under Rule 16 of the Duty Drawback Rules was raised, the Court had relegated the case on the ground that there was an alternate remedy that remained un-exhausted.

“76. The other issue, which is raised by the firm, is that the initial SCN dated August 24, 2015, which held the firm ineligible for the drawback, was issued belatedly, and was thus time-barred.

77. The learned counsel for the firm contended that the drawback in the present case relates to the years 2008 to 2014, and therefore, any demand in the year 2015, would be hit by limitation.

78. He relies upon the following judgments : *Pratibha Syntex Ltd. v. Union of India* [(2014) 27 GSTR 403 (Guj); 2012 SCC OnLine Guj 6147.], *Padmini Exports v. Union of India* [2012 SCC OnLine Guj 6191.], *State of Punjab v. Bhatinda District Coop. Milk P. Union Ltd.* [(2007) 10 VST 180 (SC); 2007 SCC OnLine SC 1254.], *Collector of Central Excise, Jaipur v. Raghuvar (India) Ltd.* [(2000) 5 SCC 299.] and *Government of India v. Citadel Fine*



Pharmaceuticals [(1990) 184 ITR 467 (SC); (1989) 3 SCC 483.]

79. On the other hand, the learned counsel for the Revenue contended that no period of limitation is prescribed under rule 16 of the Drawback Rules, and the demand was made within a reasonable period from when the Revenue came to know of the fact that the firm had wrongly availed the drawback.

80. We do not consider it apposite to decide in the facts of the present case as to whether that the SCN dated August 24, 2015 was issued belatedly or not since the said issue had been decided in favour of the Revenue by the order passed by the Commissioner (Appeals), and has not been adjudicated upon by the revision authority having jurisdiction under section 129DD of the Customs Act.

81. In the peculiar facts of this case where the Revenue originally had not taken any objection on the appeal being heard by the learned CESTAT, and had also, following the order of the learned CESTAT, sanctioned refund of the drawback, the firm should not be left remediless.

82. We, therefore, grant an opportunity to the firm to prefer a revision, under section 129DD of the Customs Act, against the order dated May 14, 2018 passed by the Commissioner (Appeals).

83. We direct that if such a revision is preferred within a period of two months, the same shall not be dismissed on the ground of limitation and be entertained on merits by the Central Government.

84. It is open for the firm to raise all grounds, including the issue as to whether the SCN dated August 24, 2015 was barred by limitation. Needless to state that if so raised, the same shall be considered by the Central Government, and a speaking order shall be passed after affording an opportunity of being heard to the firm.



85. The writ petition is disposed of in the aforesaid terms.”

23. In view of the above decision and considering that the co-noticee has been relegated to the appellate remedy, this Court is of the opinion that, though the exercise of writ jurisdiction in favour of the Petitioner may not be warranted, the Petitioner ought not to be denied the opportunity to avail the statutory remedy on grounds of parity.

24. Accordingly, the Petitioner is also permitted to avail of the appellate remedy under Section 128 of the Customs Act, 1962.

25. Needless to say, any observations made by this Court in this proceeding shall not have any bearing on the adjudication before the Appellate Authority and it shall adjudicate the same in accordance with law. At this point, Id. Counsel for the Petitioner submits that the statement made by the Petitioner before the DRI has been relied upon in the impugned OIO, but the same was extracted out of duress and coercion. Let the same be raised before the Appellate Authority.

26. The petition is disposed of in the above terms along with all pending applications.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

APRIL 8, 2025

v/Ar.

(Corrected & released on 15th April, 2025)