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

***Date of decision: 23rd December, 2025***
***Uploaded on: 26th December, 2025***

\+ **W.P.(C) 5184/2019**

SANJEEV MAGGU .....Petitioner

Through: Mr. Akhil Krishan Maggu, Adv.
Mr. Naveen Malhotra and Mr. Ritvik Malhotra, Advs.
Ms. Oshin, Mr. Vikas Sareen, Ms. Maninder Kaur, Mr. Aryan Nagpal, Ms. Mehak Sharma, Advs.

versus

ADDITIONAL COMMISSIONER OF CUSTOMS .....Respondent

Through: Mr. Gibran Naushad, Senior Standing Counsel with Mr. Harsh Singhal, Mr. Suraj Shekhar Singh, Advs.
Mr. Harpreet Singh, SSC, CBIC with Ms. Suhani Mathur, Adv.

**CORAM:**
**JUSTICE PRATHIBA M. SINGH**
**JUSTICE SHAIL JAIN**

**Prathiba M. Singh, J.(Oral)**

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, *inter alia*, assailing the order dated 7th May 2019 passed by the Respondent *(hereinafter, 'impugned order')* as also the Show Cause Notice dated 5th July, 2018 issued by the Directorate of Revenue Intelligence *(hereinafter, 'DRI') (hereinafter, 'impugned SCN')*.

3. The simple issue involved is whether the Petitioner is entitled to seek cross-examination of persons who have given certain statements, and also of officials of the Customs Department.

4. A brief background of the present case is that, the impugned SCN was issued to the Petitioner on 5th July, 2018 as per which large scale evasion of Customs Duty, by way of diversion of goods stored in the Customs Bonded Warehouse into the domestic market, was unearthed by the DRI officials.

5. Additionally, in the impugned SCN, forgery and fabrication of documents is also alleged against the Petitioner, on the ground that the warehoused goods were diverted into the domestic market by creating forged and fabricated documents for re-export of the warehouse goods.

6. The role of two main individuals *i.e.*, Sh. Ramesh Wadhera and Sh. Sanjeev Maggu, who is the Petitioner in the present case, is set out in the impugned SCN. These individuals are alleged to have created four fictitious firms and obtained Import Export Codes *(hereinafter, 'IEC')* under their names. The details of the four fictitious firms are as under:

(i) M/s Accturists Overseas (OPC) Pvt. Ltd. (IEC-0517503581)
(ii) M/s Sparx Exports (IEC-0516517803)
(iii) M/s Shree Shyam Enterprises (IEC-0516966839)
(iv) M/s Horrens Exim (IEC-0516516299)

7. According to the impugned SCN, the services of Customs Brokers namely M/s D.S. Cargo Agency and M/s R.P. Cargo Handling Services were used for creation and fabrication of all the documents by the Petitioner.

8. The DRI officials had conducted searches of the residential premises of the aforesaid two individuals and various associated Public Bonded Warehouses and the allegation raised was that foreign liquor, which had been stored at the Public Bonded Warehouses, had been removed from these warehouses and there was large scale evasion of Customs Duty.

9. The Petitioner had sought cross-examination of certain individuals in these proceedings, which was rejected by the Adjudicating Authority *vide* the impugned order dated 7th May, 2019.

10. The persons whose cross-examination was sought by the Petitioner in these proceedings are as under:

- *Sh. Lalit Dogra*
- *Sh. Raja Bansal*
- *Sh. Sanjay Gahlot*
- *Sh. Divakant Jha*
- *Sh. Rajat Prabhakar*
- *Sh. Pankaj Verma, Inspector, Bond Section*
- *Sh. Devender Singh, Tax Assistant*
- *Sh. Kishan Lal, Senior Tax Assistant, Bond Section*
- *Sh. Pramod Kumar, Superintendent Audit Branch*
- *Sh. Puneet Sethi, Air Custom Officer*
- *Ms. Geeta Juneja, Superintendent*
- *Ms. Mahinder Kapoor, Superintendent*
- *Mr. Kulwendra Singh, Assistant Commissioner*
- *Mr. Rohit Chaudhary*
- *Mr. Rajesh Mehta*

11. Further, reliance is placed by Mr. Maggu, ld. Counsel for the Petitioner on the order passed by a coordinate Bench of this Court in ***W.P.(C) 12836/2022*** titled ***Ramesh Wadhera vs. The Commissioner of Customs and W.P.(C) 12333/2022*** titled ***Sanjeev Maggu vs. Commissioner of Customs, ACC (Exports), New Customs House, New Delhi.***

12. Heard. A perusal of the impugned SCN would show that, insofar as, Mr. Lalit Dogra and Mr. Sanjay Gehlot are concerned, they are both acquaintances of Petitioner- Sh. Sanjeev Maggu and their statements are recorded in the impugned SCN. The relevant portion of the impugned SCN reads as as under:

*"42.3 **Role of Sh. Lalit Dogra**:- Sh. Lalit Dogra has accepted in his statement that his name was used fraudulently to create different Identity proofs, which were subsequently used to create the firm M/s Accturist Overseas (OPC) Pvt. Ltd. Sh. Lalit Dogra has also accepted that he was connected with M/s Sparx Exports and used an alias (Rahul Sharma) to do work related to banking for the firm M/s Sparx Exports. Sh. Lalit Dogra also accepted that he was well acquainted with Sh. Sanjeev Maggu and accepted that all the payments were made through Hawala. It transpires that Sh. Lalit Dogra deliberately aided and abetted the said scheme of duty evasion by way of diverting the warehoused goods into the Domestic Tariff Area without payment of duty and therefore, it appears that Sh. Lalit Dogra has rendered himself to penal action under Section 112 (a), 112 (b) and 114AA of the Customs Act, 1962 for the acts of omissions and commissions as discussed herein."*

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*42.6 **Role of Sh. Sanjay Gahlot**:- Sh. Sanjay Gahlot worked on the directions of Sh. Sanjeev Maggu and ignored to fulfill his duties as a Warehouse Keeper of the Public Bonded Warehouse, as laid down in the Warehousing Rules and Regulations. Sh. Sanjay Gahlot, in his statements, accepted that the goods were removed from their premises without payment of duty by Sh. Sanjeev Maggu or any of his employees, by filing fake documents which showed the goods to be re-exported/ re-warehoused. Sh. Sanjay Gahlot did not pay much attention towards the paper-work related to Customs, rather followed the directions of Sh. Sanjeev Maggu in respect of the movement of the goods, due to which huge losses were caused to the Government exchequer and therefore, it appears that Sh. Sanjay Gahlot has rendered himself liable to penal action under Section 112 (a), 112 (b) and 114AA of the Customs Act, 1962 read with Regulation 12 of Warehousing (Custody and Handling of Goods) Regulations, 2016 for the acts of omissions and commissions as discussed herein."*

13. A perusal of these statements would show that Mr. Lalit Dogra and Mr. Sanjay Gehlot claimed to be associated with the Petitioner and their

services had been used for filing of fake documents and for removal of the warehoused goods.

14. Thus, the Petitioner, Sh. Sanjeev Maggu, is fully aware of the aforesaid two persons. However, the stand of the Petitioner is that the statements of Mr. Lalit Dogra and Mr. Sanjay Gehlot have been retracted. If so, these statements shall be read in accordance with law.

15. Insofar as the remaining individuals are concerned, some of them are officials in the Customs Department, including, Mr. Pankaj Verma, Inspector Bond Section, Mr. Devender Singh, Tax Assistant Customs Department, Mr. Kishan Lal, Senior Tax Assistant Bond Section, Mr. Pramod Kumar, Superintendent, Audit Branch, Mr. Puneet Sethi, Air Customs Officer, Ms. Geeta Juneja, Superintendent, Mr. Mahindra Kapoor, Superintendent, Mr. Kulwendra Singh, Assistant Commissioner.

16. The aforesaid persons being Customs Officials, this Court is of the considered view that they were discharging their duties in an official capacity. Consequently, they cannot, as a matter of right, be subjected to cross-examination, particularly in view of the settled position of law laid down by this Court in ***W.P.(C) 4576/*****2026** titled ***M/s Vallabh Textiles vs. Additional Commissioner Central Tax GST, Delhi East and Ors.,*** wherein the Court has held that the right to cross examination is not an unfettered and absolute right. Prejudice has to be shown which would lead to a conclusion that without cross examination substantial justice cannot be done. The relevant portion of the said decision in ***M/s Vallabh Textiles (Supra)*** reads as under:

> *"18.* ***A perusal of the above decisions reveals that while cross-examination would be required in certain cases, it***

***need not be given as a matter of right in all cases. The provision of the opportunity to cross-examine depends on the facts and circumstances of each case and is warranted only when the party seeking such an opportunity is able to demonstrate that prejudice would be caused in the absence thereof.***

*19. The Court is of the considered view that parties cannot, by praying for cross-examination, cannot convert Show-cause Notice proceedings into mini-trials.* ***Persons seeking cross-examination ought to give specific reasons why cross-examination is needed in a particular situation and that too of specific witnesses. A blanket request to cross-examine all persons whose statements have been recorded by the Department, many of whom are typically employees, sellers, purchasers, or other persons connected to the entity under investigation, cannot be sustained.*** *If a prayer for cross-examination is made, the Authority has to consider the same fairly and if the need is so felt in respect of a particular person, the same ought to be permitted. If not, the Authority can record the reasons and proceed in the case. Moreover, cross examination need not also be of all persons whose statements are recorded. It could be permitted by the Authority in case of some persons and not all."*

17. Insofar as Mr. Divakant Jha and Mr. Rajat Prabhakar are concerned, they are the Customs Brokers and proprietors of M/s D.S. Cargo Agency and M/s R.P. Cargo Handling Services. Considering that they could be independent Customs Brokers, who also serve other clients, their cross-examination is permitted.

18. Insofar as Mr. Rohit Chaudhary and Mr. Rajesh Mehta are concerned, they are staff members of Customs Bonded Warehouses, being private individuals, their cross-examination is permitted.

19. Accordingly, the impugned order is modified.

20. Let the cross-examination of aforementioned four individuals Mr. Divakant Jha and Mr. Rajat Prabhakaras also Mr. Rohit Chaudhary and Mr. Rajesh Mehta be conducted by the Petitioner on 21st January, 2026 and 22nd January, 2026.

21. After the cross-examination is concluded, the Petitioner shall file an additional reply to the impugned SCN.

22. If the Petitioner intends to rely upon the cross-examination of other individuals, which may have been conducted in connected proceedings, the same is permitted to be relied upon.

23. Thereafter, a personal hearing shall be granted to the Petitioner by the Adjudicating Authority, and after hearing the Petitioner, the impugned SCN shall be adjudicated in accordance with law. The notice for personal hearing shall be communicated to the Petitioner on the following email address and mobile No:

- ***Email: naveenmalhotra470@gmail.com***
- ***Mobile No.: 9810035082***

24. The petition is disposed of in these terms. Pending Applications, if any are also disposed of.

**PRATHIBA M. SINGH**
**JUDGE**

**SHAIL JAIN**
**JUDGE**

**DECEMBER 23, 2025**/*tg/sm*