



**CWP-16779-2021 (O&M)**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

-.-

**Decided on 09.01.2025**

**1. CWP-16779-2021 (O&M)**

M/s Gautam Spinners

....Petitioner

VERSUS

Deputy Director, Directorate of Revenue  
Intelligence (DRI), Ludhiana and Others

....Respondent

**2. CWP-288-2023 (O&M)**

M/sAllround (India) Vegetable  
Processing Machine Pvt. Ltd. and another

....Petitioners

VERSUS

Union of India and Others

....Respondents

**3. CWP-16751-2021 (O&M)**

Gautam International Through Its Proprietor

....Petitioner

VERSUS

Additional Director General, Directorate of  
Revenue Intelligence and Another

....Respondents

**4. CWP-12767-2023 (O&M)**

Tridev Overseas

....Petitioner

VERSUS

Union of India and Ors

....Respondents

**CWP-16779-2021 (O&M)****5. CWP-29325-2022 (O&M)**

Mahalaxmi Traders

.....Petitioner

VERSUS

Union of India and Ors

....Respondents

**6. CWP-17888-2021 (O&M)**

M/s Drown Woollen Mills

.....Petitioner

VERSUS

Deputy Director, Directorate of Revenue  
Intelligence (DRI), Ludhiana and Another

....Respondents

**7. CWP-18416-2021 (O&M)**

M/s PDG Wool Traders and Another

.....Petitioners

VERSUS

Deputy Director, Directorate of Revenue  
Intelligence (DRI), Ludhiana Zonal Unit and Another

....Respondents

**8. CWP-26913-2022 (O&M)**

Sanjeev Textile Woollen Mills

.....Petitioners

VERSUS

Union of India and Ors

....Respondents

**9. CWP-17857-2021 (O&M)**

Raghav Woollen Mills Pvt. Ltd. and Another

.....Petitioners

VERSUS

Deputy Director, Directorate of Revenue  
Intelligence (DRI) and Another

....Respondents

**CWP-16779-2021 (O&M)****10. CWP-18276-2022 (O&M)**

Hero Electric Vehicles Pvt. Ltd.

....Petitioner

VERSUS

Union of India and Ors

....Respondents

**11. CWP-626-2022 (O&M)**

M/s Aamamya Impex

....Petitioner

VERSUS

Union of India and Ors

....Respondents

**12. CWP-16817-2021 (O&M)**

Gautam Spinners

....Petitioner

VERSUS

Assistant Director, Directorate of Revenue  
Intelligence and Another

....Respondents

**13. CWP-23088-2021 (O&M)**

M/s Avi International

....Petitioner

VERSUS

Union of India and Ors

....Respondents

**14. CWP-11593-2023 (O&M)**

T R Knitters

....Petitioner

VERSUS

Union of India and Ors

....Respondents

**15. CWP-24394-2021 (O&M)**

Ruby Knitting Corporation

....Petitioner

VERSUS

Directorate of Revenue  
Intelligence and Ors.

....Respondents



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**16. CWP-14257-2022 (O&M)**

Gopi Fabrics Pvt. Ltd.

....Petitioner

VERSUS

Union of India and Ors

....Respondents

**17. CWP-12379-2023 (O&M)**

Rajesh Knitting Industries

....Petitioner

VERSUS

Union of India and Ors

....Respondents

**18. CWP-12465-2023 (O&M)**

N.P. Textile Mills

....Petitioner

VERSUS

Union of India and Ors

....Respondents

**19. CWP-11853-2023 (O&M)**

Fine Knit Fab

....Petitioner

VERSUS

Union of India and Ors

....Respondents

**20. CWP-12605-2023 (O&M)**

Unique Embroideries

....Petitioner

VERSUS

Union of India and Ors

....Respondents



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**21. CWP-12645-2023 (O&M)**

Lotus Nets Pvt. Ltd.

....Petitioner

VERSUS

Union of India and Ors

....Respondents

**22. CWP-12466-2023 (O&M)**

Top Knit Textiles

....Petitioner

VERSUS

Union of India and Ors

....Respondents

**23. CWP-12661-2023 (O&M)**

K.B.Fabrics

....Petitioner

VERSUS

Union of India and Ors

....Respondents

**24. CWP-8295-2023 (O&M)**

Inder International and Ors

....Petitioners

VERSUS

Union of India and Ors

....Respondents

**25. CWP-710-2022 (O&M)**

M/s Allround India Vegetable Processing  
Machine Pvt. Ltd and Anr.

....Petitioners

VERSUS

Union of India and Ors

....Respondents



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**26. CWP-12915-2023 (O&M)**

Shanker Industries

....Petitioner

VERSUS

Union of India and Ors

....Respondents

**27. CWP-12880-2023 (O&M)**

Sudip Malik Mills

....Petitioner

VERSUS

Union of India and Ors

....Respondents

**28. CWP-12841-2023 (O&M)**

D.K. Fashions

....Petitioner

VERSUS

Union of India and Ors

....Respondents

**29. CWP-12802-2023 (O&M)**

Devgan Knit Fab

....Petitioner

VERSUS

Union of India and Ors

....Respondents

**30. CWP-12663-2023 (O&M)**

Jai Shankar Knit Fab

....Petitioner

VERSUS

Union of India and Ors

....Respondents

**31. CWP-11727-2023 (O&M)**

Sehgal Knitters

....Petitioner

VERSUS

Union of India and Ors

....Respondents



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**32. CWP-11680-2023 (O&M)**

Star Milk Mills Pvt. Ltd.

....Petitioner

VERSUS

Union of India and Ors

....Respondents

**33. CWP-17715-2021 (O&M)**

Raghav Woolen Mills Pvt. Ltd and Another

....Petitioners

VERSUS

Deputy Director Directorate Of Revenue  
Intelligence DRI And Another

....Respondents

**34. CWP-17320-2021 (O&M)**

M/SZee Knits And Weaves Private  
Limited And Another

....Petitioners

VERSUS

Commissioner of Customs (Export) And Another

....Respondents

**35. CWP-17324-2021 (O&M)**

M/s Worldwide Tradelinks And Another

....Petitioners

VERSUS

Commissioner of Customs (Export) And Another

....Respondents

**36. CWP-17731-2021 (O&M)**

Raghav Woolen Mills Pvt. Ltd. And Another

....Petitioners

VERSUS

Deputy Director, Directorate of Revenue  
Intelligence (DRI) And Another

....Respondents

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**37. CWP-23537-2016 (O&M)**

M/s Jairath International &amp; Anr.

....Petitioners

VERSUS

Union of India &amp; Ors

....Respondents

**38. CWP-16204-2016 (O&M)**

Rajesh Kumar Aggarwal

....Petitioners

VERSUS

Union of India &amp; Ors

....Respondents

**39. CWP-14039-2023 (O&M)**Sureka Knitting Mills Through Its Partner  
Sh. Nirmal Kumar Sureka

....Petitioner

VERSUS

Union of India &amp; Ors

....Respondents

**40. CWP-14037-2023 (O&M)**

R5 Fabb Pvt. Ltd.

....Petitioner

VERSUS

Union of India &amp; Ors

....Respondents

**41. CWP-13941-2023 (O&M)**

Kochar Woollen Mills Pvt. Ltd.

....Petitioner

VERSUS

Union of India &amp; Ors.

....Respondents

**42. CWP-14229-2023 (O&M)**

Bhanu Embroideries

....Petitioner

VERSUS

Union of India &amp; Ors.

....Respondents



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**43. CWP-13057-2023 (O&M)**

Shree Satguru Embroideries

....Petitioner

VERSUS

Union of India & Ors.

....Respondents

**44. CWP-13056-2023 (O&M)**

V R Knitters

....Petitioner

VERSUS

Union of India & Ors.

....Respondents

**45. CWP-14984-2023 (O&M)**

Universal Industries

....Petitioner

VERSUS

Union of India & Ors.

....Respondents

**46. CWP-15112-2023 (O&M)**

Stylam Industries Ltd.

....Petitioner

VERSUS

Union of India & Ors.

....Respondents

**47. CWP-13942-2023 (O&M)**

D K Overseas

....Petitioner

VERSUS

Union of India & Ors.

....Respondents

**48. CWP-14214-2024 (O&M)**

Gupta G And Company

....Petitioner

VERSUS

Union of India & Ors.

....Respondents



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**49. CWP-26231-2016 (O&M)**

Derby Overseas (P) Ltd.

....Petitioner

VERSUS

Union of India & Ors.

....Respondents

**CORAM : HON'BLE MR. JUSTICE ARUN PALLI  
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: **For the Petitioners**

Mr. Saurabh Kapoor, Advocate and  
Ms. Muskan Gupta, Advocate  
Mr. Deepak Gupta, Advocate  
Mr. Amrinder Singh, Advocate

**For the respondents**

Mr. Sourabh Goel, Sr. Standing Counsel with  
Ms. Geetika Sharma, Advocate for the respondents-Revenue.

Mr. Anshuman Chopra, Sr. Standing Counsel with  
Mr. Deepesh Kakkar, Advocate and  
Mr. Govinda, Advocate for the respondents-CBIC

Mr. Gurinderjit Singh, Sr. Panel Counsel  
for respondents-GST.

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**SUDEEPTI SHARMA, J.**

1. Since common question of law is involved in the above-numbered writ petitions, therefore, we decide these writ petitions vide this common judgment.

2. The challenge in the present writ petitions is to the show cause notices issued under Section 28 of the Customs Act, 1962 by different DRI authorities on the ground that they are not proper and competent officers to issue show cause notices, in view of judgment passed by the Hon'ble Supreme Court in *M/s Canon*

***India Private Limited Vs. Commissioner of Customs [2021 SCC Online SC 200]***

Civil Appeal No.1827 of 2018 decided on 09.03.2021.

3. Relevant portion of the judgment of Hon'ble Supreme Court in the case of *M/s Canon India Private Limited (supra)*, is reproduced as under:-

***“4. The main issue is whether after clearance of the cameras on the basis that they were exempted from levy of basic Customs duty under Notification No.15/2012, the proceedings initiated by the Directorate of Revenue Intelligence for recovery of duty not paid under section 28(4) of the Customs Act, 1962 are valid in law.***

\* \* \* \* \*

***9. The question that arises is whether the Directorate of Revenue Intelligence had authority in law to issue a show cause notice under Section 28(4) of the Act for recovery of duties allegedly not levied or paid when the goods have been cleared for import by a Deputy Commissioner of Customs who decided that the goods are exempted. It is necessary that the answer must flow from the power conferred by the statute i.e. under Section 28(4) of the Act. This Section empowers the recovery of duty not paid, part paid or erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts and confers the power of recovery on "the proper officer". The obvious intention is to confer the power to recover such duties not on any proper officer but only on "the proper officer". This Court in *Consolidated Coffee Ltd. and Another v. Coffee Board, Bangalore, (1980) 3 SCC 358* has held:-***



*"14. ...Secondly, and more importantly, the user of the definite article 'the' before the word 'agreement' is, in our view, very significant. Parliament has not said 'an agreement' or 'any agreement' for or in relation to such export and in the context the expression 'the agreement' would refer to that agreement which is implicit in the sale occasioning the export."*

*In Shri Ishar Alloy Steels Ltd. v. Jayaswals Neco Ltd., (2001) 3 SCC 609 has held:-*

*"9. ...'The' is the word used before nouns, with a specifying or particularising effect as opposed to the indefinite or generalizing force of 'a' or 'an'. It determines what particular thing is meant; that is, what particular thing we are to assume to be meant. 'The' is always mentioned to denote a particular thing or a person."*

\* \* \* \* \*

*16. At this stage, we must also examine whether the Additional Director General of the DRI who issued the recovery notice under Section 28(4) was even a proper officer. The Additional Director General can be considered to be a proper officer only if it is shown that he was a Customs officer under the Customs Act. In addition, that he was entrusted with the functions of the proper officer under section 6 of the Customs Act. The Additional Director General of the DRI can be considered to be a Customs officer only if he is shown to have been appointed as Customs officer under the Customs Act.*

\* \* \* \* \*



*18. The next step is to see whether an Additional Director General of the DRI who has been appointed as an officer of Customs, under the notification dated 7.3.2002, has been entrusted with the functions under Section 28 as a proper officer under the Customs Act. In support of the contention that he has been so entrusted with the functions of a proper officer under section 28 of the Customs Act, Shri Sanjay Jain, learned Additional Solicitor General relied on a Notification No.40/2012 dated 2.5.2012 issued by the Central Board of Excise and Customs. The notification confers various functions referred to in Column (3) of the notification under the Customs Act on officers referred to in Column (2). The relevant part of the notification reads as follows:-*

*"[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii)]*

*Government of India*

*Ministry of Finance*

*(Department of Revenue)*

*Notification No.40/2012-Customs (N.T.)*

*New Delhi, dated the 2nd May, 2012*

*S.O. (E). - In exercise of the powers conferred by sub-section (34) of section 2 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs, hereby assigns the officers and above the rank of officers mentioned in Column (2) of the Table below, the functions as the proper officers in relation to the various sections of the Customs*



*Act, 1962, given in the corresponding entry in Column (3) of the said*

*Table: -*

<b>Sr. No.</b>	<b>Designation of the officers</b>	<b>Functions under Section of the Customs Act, 1962</b>
(1)	(2)	(3)
1	Commissioner of Customs	(i) Section 33
2.	Additional Commissioner or Joint Commissioner of Customs	(i) Sub-section(5) of Section 46; and (ii) Section 149
3.	Deputy Commissioner or Assistant Commissioner of Customs and Central Excise	(i) .... (ii).... (iii).... (iv).... (v).... (vi) Section 28; .....

*19. It appears that a Deputy Commissioner or Assistant Commissioner of Customs has been entrusted with the functions under Section 28, vide Sl. No.3 above. By reason of the fact that the functions are assigned to officers referred to in Column (3) and those officers above the rank of officers mentioned in Column (2), the Commissioner of Customs would be included as an officer entitled to perform the function under Section 28 of the Act conferred on a Deputy Commissioner or Assistant Commissioner but the notification appears to be ill-founded. The notification is purported to have been issued in exercise of powers under sub-Section (34) of section 2 of the Customs Act. This section does not confer any powers on any authority to entrust any functions to officers. The sub-Section is part of the definitions clause of the Act, it merely defines a proper officer, it reads as follows:-*



*"2. Definitions - In this Act, unless the context otherwise requires, -*

*...*

*(34) 'proper officer', in relation to any functions to be performed under this Act, means the officer of customs who is assigned those functions by the Board or the [Principal Commissioner of Customs or Commissioner of Customs]."*

*20. Section 6 is the only Section which provides for entrustment of functions of Customs officer on other officers of the Central or the State Government or local authority, it reads as follows:-*

*"6. Entrustment of functions of Board and customs officers on certain other officers – The Central Government may, by notification in the Official Gazette, entrust either conditionally or unconditionally to any officer of the Central or the State Government or a local authority any functions of the Board or any officer of customs under this Act."*

*21. If it was intended that officers of the Directorate of Revenue Intelligence who are officers of Central Government should be entrusted with functions of the Customs officers, it was imperative that the Central Government should have done so in exercise of its power under Section 6 of the Act. The reason why such a power is conferred on the Central Government is obvious and that is because the Central Government is the authority which appoints both the officers of the Directorate of Revenue Intelligence which is set up under the Notification dated 04.12.1957 issued by the Ministry of Finance and Customs officers who, till 11.5.2002, were appointed by*



*the Central Government. The notification which purports to entrust functions as proper officer under the Customs Act has been issued by the Central Board of Excise and Customs in exercise of non-existing power under Section 2 (34) of the Customs Act. The notification is obviously invalid having been issued by an authority which had no power to do so in purported exercise of powers under a section which does not confer any such power.*

*22. In the above context, it would be useful to refer to the decision of this Court in the case of **Commissioner of Customs v. Sayed Ali and Another, (2011) 3 SCC 537** wherein the proper officer in respect of the jurisdictional area was considered. The consideration made is as hereunder:-*

*"16. It was submitted that in the instant case, the import manifest and the bill of entry were filed before the Additional Collector of Customs (Imports), Mumbai; the bill of entry was duly assessed, and the benefit of the exemption was extended, subject to execution of a bond by the importer which was duly executed undertaking the obligation of export. The learned counsel argued that the function of the preventive staff is confined to goods which are not manifested as in respect of manifested goods, where the bills of entry are to be filed, the entire function of assessment, clearance, etc. is carried out by the appraising officers functioning under the Commissioner of Customs (Imports).*



*17. Before advertizing to the rival submissions, it would be expedient to survey the relevant provisions of the Act. Section 28 of the Act, which is relevant for our purpose, provides for issue of notice for payment of duty that has not been paid, or has been short-levied or erroneously refunded, and provides that:*

*"28. Notice for payment of duties, interest, etc. - (1) When any duty has not been levied or has been short-levied or erroneously refunded, or when any interest payable has not been paid, part paid or erroneously refunded, the proper officer may,-*

*(a) in the case of any import made by any individual for his personal use or by Government or by any educational, research or charitable institution or hospital, within one year;*

*(b) in any other case, within six months, from the relevant date, serve notice on the person chargeable with the duty or interest which has not been levied or charged or which has been so short-levied or part paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice:*

*Provided that where any duty has not been levied or has been short-levied or the interest has not been charged or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the*



*agent or employee of the importer or exporter, the provisions of this subsection shall have effect as if for the words 'one year' and 'six months', the words 'five years' were substituted."*

*18. It is plain from the provision that the 'proper officer' being subjectively satisfied on the basis of the material that may be with him that customs duty has not been levied or short levied or erroneously refunded on an import made by any individual for his personal use or by the Government or by any educational, research or charitable institution or hospital, within one year and in all other cases within six months from the relevant date, may cause service of notice on the person chargeable, requiring him to show cause why he should not pay the amount specified in the notice. It is evident that the notice under the said provision has to be issued by the 'proper officer'.*

*19. Section 2(34) of the Act defines a 'proper officer', thus:*

***'2. Definitions.-***

*(34) 'proper officer', in relation to any functions to be performed under this Act, means the officer of customs who is assigned those functions by the Board or the Commissioner of Customs;'*

*It is clear from a mere look at the provision that only such officers of customs who have been assigned specific functions would be 'proper officers' in terms of Section 2(34) the Act. Specific entrustment of function by either the Board or the*



*Commissioner of Customs is therefore, the governing test to determine whether an `officer of customs' is the `proper officer'.*

*20. From a conjoint reading of Sections 2(34) and 28 of the Act, it is manifest that only such a Customs Officer who has been assigned the specific functions of assessment and reassessment of duty in the jurisdictional area where the import concerned has been affected, by either the Board or the Commissioner of Customs, in terms of Section 2(34) of the Act is competent to issue notice under Section 28 of the Act. Any other reading of Section 28 would render the provisions of Section 2(34) of the Act otiose inasmuch as the test contemplated under Section 2(34) of the Act is that of specific conferment of such functions."*

***23. We, therefore, hold that the entire proceeding in the present case initiated by the Additional Director General of the DRI by issuing show cause notices in all the matters before us are invalid without any authority of law and liable to be set-aside and the ensuing demands are also set-aside."***

4. Hon'ble Supreme Court in the case of ***M/s Canon India Private Limited (supra)*** held that the show cause notices in all the matters are invalid, without any authority of law and liable to be set aside and the ensuing demands are also set aside.

5. The Commissioner of Customs filed ***Review Petition No.400 of 2021 of Civil appeal No. 1827 of 2018*** titled as ***Commissioner of Customs Vs. M/s***



*Canon India Pvt. Ltd. [2024 SCC Online SC 3188]*, and the same was decided on 07.11.2024. The relevant portion of the same is reproduced as under:-

***“F. CONCLUSION***

*168. In view of the aforesaid discussion, we conclude that:*

*(i) DRI officers came to be appointed as the officers of customs vide Notification No. 19/90-Cus (N.T.) dated 26.04.1990 issued by the Department of Revenue, Ministry of Finance, Government of India.*

*This notification later came to be superseded by Notification No. 17/2002 dated 07.03.2002 issued by the Department of Revenue, Ministry of Finance, Government of India, to account for administrative changes.*

*(ii) The petition seeking review of the decision in Canon India (supra) is allowed for the following reasons:*

*a. Circular No. 4/99-Cus dated 15.02.1999 issued by the Central Board of Excise & Customs, New Delhi which empowered the officers of DRI to issue show cause notices under Section 28 of the Act, 1962 as well as Notification No. 44/2011 dated 06.07.2011 which assigned the functions of the proper officer for the purposes of Sections 17 and 28 of the Act, 1962 respectively to the officers of DRI were not brought to the notice of this Court during the proceedings in Canon India (supra). In other words, the judgment in Canon India (supra) was rendered without looking into the circular and the notification referred to above thereby seriously affecting the correctness of the same.*



*b. The decision in Canon India (supra) failed to consider the statutory scheme of Sections 2(34) and 5 of the Act, 1962 respectively. As a result, the decision erroneously recorded the finding that since DRI officers were not entrusted with the functions of a proper officer for the purposes of Section 28 in accordance with Section 6, they did not possess the jurisdiction to issue show cause notices for the recovery of duty under Section 28 of the Act, 1962.*

*c. The reliance placed in Canon India (supra) on the decision in Sayed Ali (supra) is misplaced for two reasons - first, Sayed Ali (supra) dealt with the case of officers of customs (Preventive), who, on the date of the decision in Sayed Ali (supra) were not empowered to issue show cause notices under Section 28 of the Act, 1962 unlike the officers of DRI; and secondly, the decision in Sayed Ali (supra) took into consideration Section 17 of the Act, 1962 as it stood prior to its amendment by the Finance Act, 2011. However, the assessment orders, in respect of which the show cause notices under challenge in Canon India (supra) were issued, were passed under Section 17 of the Act, 1962 as amended by the Finance Act, 2011.*

*(iii) This Court in Canon India (supra) based its judgment on two grounds:*

*(1) the show cause notices issued by the DRI officers were invalid for want of jurisdiction; and (2) the show cause notices were issued after the expiry of the prescribed limitation period. In the present judgment, we have only considered and reviewed the decision in Canon India (supra) to the extent that it pertains to the first ground, that is, the*



*jurisdiction of the DRI officers to issue show cause notices under Section 28. We clarify that the observations made by this Court in Canon India (supra) on the aspect of limitation have neither been considered nor reviewed by way of this decision. Thus, this decision will not disturb the findings of this Court in Canon India (supra) insofar as the issue of limitation is concerned.*

*(iv) The Delhi High Court in Mangali Impex (supra) observed that Section 28(11) could not be said to have cured the defect pointed out in Sayed Ali (supra) as the possibility of chaos and confusion would continue to subsist despite the introduction of the said section with retrospective effect. In view of this, the High Court declined to give retrospective operation to Section 28(11) for the period prior to 08.04.2011 by harmoniously construing it with Explanation 2 to Section 28 of the Act, 1962. We are of the considered view that the decision in Mangali Impex (supra) failed to take into account the policy being followed by the Customs department since 1999 which provides for the exclusion of jurisdiction of all other proper officers once a show cause notice by a particular proper officer is issued. It could be said that this policy provides a sufficient safeguard against the apprehension of the issuance of multiple show cause notices to the same assessee under Section 28 of the Act, 1962. Further, the High Court could not have applied the doctrine of harmonious construction to harmonise Section 28(11) with Explanation 2 because Section 28(11) and Explanation 2 operate in two distinct fields and no inherent contradiction can be said to exist between the two.*



*Therefore, we set aside the decision in Mangali Impex (supra) and approve the view taken by the High Court of Bombay in the case of Sunil Gupta (supra).*

*(v) Section 97 of the Finance Act, 2022 which, inter-alia, retrospectively validated all show cause notices issued under Section 28 of the Act, 1962 cannot be said to be unconstitutional. It cannot be said that Section 97 fails to cure the defect pointed out in Canon India (supra) nor is it manifestly arbitrary, disproportionate and overbroad, for the reasons recorded in the foregoing parts of this judgment. We clarify that the findings in respect of the vires of the Finance Act, 2022 is confined only to the questions raised in the petition seeking review of the judgment in Canon India (supra). The challenge to the Finance Act, 2022 on grounds other than those dealt with herein, if any, are kept open.*

*(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:*



*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.*

*169. In view of the aforesaid, we allow the Review Petition No. 400/2021 titled Commissioner of Customs v. M/s Canon India Pvt. Ltd. and the connected Review Petition Nos. 401/2021, 402/2021 and 403/2021 insofar as the issue of jurisdiction of the proper officer to issue show cause notice under Section 28 is concerned. As discussed, the findings of this Court in Canon India (supra) in respect of the show cause notices having been issued beyond the limitation period remain undisturbed.”*

6. In view of the above we dispose of all the above referred to writ petitions in accordance with the decision of Hon'ble Supreme Court in *Review*



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*Petition No 400/2021 titled Commissioner of Customs v. M/s Canon India Pvt. Ltd. and other connected review petitions [2024 SCC Online SC 3188].*

7. Since in all the above referred to writ petitions show cause notices issued under Section 28 of the Act 1962 have been challenged, the present writ petitions are disposed of by restoring such notices for adjudication by the proper officer under Section 28 of the Act, 1962.

8. Since in the impugned notices in the present writ petitions the period of 30 days was granted to file reply and further proceedings were stayed by this Court, therefore, all the petitioners are directed to file reply within a period of 30 days. The time limit of 30 days granted to all the petitioners for filing reply in the impugned notices would start from the date of receipt of copy of this judgment. The respondents are further directed to adjudicate the matter in accordance with law.

9. Disposed of accordingly.

10. Pending applications, if any, also stand disposed of.

**(ARUN PALLI)**  
**JUDGE**

**(SUDEEPTI SHARMA)**  
**JUDGE**

January 09, 2025

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Whether speaking/non-speaking : Speaking

Whether reportable : Yes