2026:DHC:6379-DB

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
% ***Judgment reserved on: 27.07.2026***
Judgment pronounced on: 07.08.2026
Judgment uploaded on: 07.08.2026

\# **CNR No. DLHC010524762023**
\+ W.P.(C) 16149/2023
A V INTERNATIONAL & ANR. .....Petitioners
Through: Mr. Prem Ranjan Kumar, Adv.
versus
ADDITIONAL DIRECTOR GENERAL DIRECTORATE OF REVENUE INTELLIGENCE & ORS. .....Respondents
Through: Mr. Anurag Ojha, SSC with Mr. Dipak Raj, Mr. Aryaman Singh Chouhan, and Mr. Aditya Chaudhary, Advs. for R-1.
Mr. Amit Gupta, SPC with Mr. Vidur Dwivedi, Adv. for UOI.
Mr. Gibran Naushad, SSC with Mr. Suraj Shekhar Singh, and Mr. Hasan Haider, Advs. for R-2-4.

\# **CNR No. DLHC010181002024**
\+ W.P.(C) 5024/2024 and CM APPL. 20542/2024
A V INTERNATIONAL & ANR. .....Petitioners
Through: Mr. Prem Ranjan Kumar, Adv.
versus

THE PRINCIPAL COMMISSIONER OF CUSTOMS IMPORT & ANR. .....Respondents
Through: Mr. Anurag Ojha, SSC with Mr. Dipak Raj, Mr. Aryaman Singh Chouhan, and Mr. Aditya Chaudhary, Advs. for R-2.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MS. JUSTICE SHAIL JAIN

J U D G M E N T

ANIL KSHETARPAL, J.:

1. The present Writ Petitions, filed under Article 226 of the Constitution of India, arise out of a common investigation conducted by the Directorate of Revenue Intelligence (hereinafter referred to as 'DRI') and involve interconnected questions of fact and law. While W.P.(C.) No.16149/2023 challenges the continuation of adjudication proceedings pursuant to Show Cause Notice No.16/2020 dated 11.05.2020 (hereinafter referred to as 'Second SCN'), the connected Writ Petition, W.P.(C) No.5024/2024, assails the Order-in-Original dated 01.02.2024 (hereinafter referred to as 'Impugned Order') passed in respect of Show Cause Notice No.11/2017 dated 27.03.2017 (hereinafter referred to as 'First SCN'). Since both matters emanate from the same investigation and involve overlapping issues, they were heard together and are being disposed of by this common judgment.

2. The dispute traces its origin to an investigation initiated by the DRI in the year 2016 in relation to the Petitioners' imports. The investigation led to the issuance of the First SCN in 2017 and, subsequently, the Second SCN in 2020. The First SCN pertained to the goods seized during the course of investigation, whereas the Second SCN related to the Petitioners' earlier imports and proposed recovery of customs duty, interest and penalty under the Customs Act, 1962 (hereinafter referred to as 'the Act'). Both SCNs were thereafter assigned to the same adjudicating authority and taken up together for adjudication.

3. The Petitioners, by way of the present Writ Petitions, challenge the continuation of adjudication proceedings pursuant to the Second SCN, the Impugned Order passed in respect of the First SCN, and the legality of the impugned proceedings on various grounds, including the alleged violation of the principles of natural justice.

FACTUAL MATRIX:

4. The facts giving rise to the present Writ Petitions are, briefly, as follows.

5. The Petitioners are engaged in the business of importing and trading signage materials, principally from China and Taiwan. In the year 2016, the DRI initiated an investigation on allegations of mis-declaration of imported goods and undervaluation thereof. During the course of investigation, searches were conducted at the residential and business premises of the Petitioners, certain goods were seized, statements of various persons were recorded and the seized goods were thereafter provisionally released upon the Petitioners furnishing the requisite bond and bank guarantee.

6. Upon completion of the investigation, the DRI issued two SCNs. The First SCN was issued in 2017, which pertained to the goods seized during the search and proposed confiscation of the goods together with consequential penalties, and thereafter, after a gap of three (03) years, the Second SCN was issued, which pertained to the Petitioners' earlier imports and proposed recovery of customs duty along with interest and penalty under Section 28 of the Act.

7. On 13.10.2020, the Principal Commissioner of Customs (Import), ICD, Tughlakabad, was appointed as the common

adjudicating authority in respect of both SCNs. Thereafter, common notices of personal hearing came to be issued and the proceedings in both matters were taken up together. According to the Petitioners, during the course of adjudication they repeatedly sought supply of the relied upon documents and also requested adjournments on account of the serious medical condition of the proprietor of Petitioner No.1 and the prevailing COVID-19 pandemic. It is their case that certain relied upon documents were not furnished despite repeated requests.

8. It is also the Petitioners' case that, following the decision of the Supreme Court in ***Canon India Pvt. Ltd. v. Commissioner of Customs***[1], the Central Board of Indirect Taxes and Customs (hereinafter referred to as 'CBIC') issued an Instruction dated 17.03.2021 directing that such matters be transferred to the Call Book. Consequently, according to the Petitioners, adjudication proceedings in respect of both SCNs remained pending for some time before being resumed.

9. The Respondents, on the other hand, contend that the adjudication proceedings were conducted strictly in accordance with the statutory framework. It is their case that the Petitioners were afforded several opportunities of personal hearing but repeatedly sought adjournments and failed to participate in the proceedings. The Respondents further assert that, pursuant to the matter being withdrawn from the Call Book following the amendments introduced by the Finance Act, 2022, the period available for adjudication recommenced in terms of Section 28(9A) of the Act and, in view of the volume of matters restored for adjudication, the competent

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[1] 2021 (376) ELT 3 (SC)

authority granted an extension of time on 06.03.2023 for completion of the adjudication proceedings.

10. As no adjudication order had been passed in respect of Second SCN, the Petitioners instituted W.P.(C.) No.16149/2023 before this Court, raising various challenges to the continuation of adjudication proceedings, including those founded on Section 28(9) of the Customs Act. By order dated 14.12.2023, notice was issued in the said Writ Petition and further proceedings pursuant to Second SCN were stayed.

11. Thereafter, notwithstanding the pendency of W.P.(C.) No.16149/2023 and the interim order staying proceedings in Second SCN passed therein, the Adjudicating Authority proceeded to adjudicate the First SCN and passed the Impugned Order. Aggrieved thereby, the Petitioners instituted the W.P.(C) No.5024/2024, contending that, since both SCNs emanated from the same investigation and were being adjudicated together by the same authority, the Respondents could not have proceeded with adjudication of the First SCN while proceedings pursuant to the Second SCN remained stayed. The Petitioners have also assailed the Impugned Order on independent grounds, including alleged violation of the principles of natural justice and non-supply of relied upon documents.

CONTENTIONS OF THE PARTIES:

12. Heard learned Senior Standing Counsel and learned Counsel representing the parties at length and with their able assistance, perused the paperbook.

13. Learned Counsel representing the Petitioners has made the following submissions:

i. Both the First SCN and the Second SCN emanate from the same investigation conducted by the DRI, involve substantially common allegations, were assigned to the same Adjudicating Authority and were being heard together. Once this Court had stayed further proceedings pursuant to the Second SCN by order dated 14.12.2023, the Respondents could not have proceeded to adjudicate the First SCN in isolation by passing the Impugned Order dated 01.02.2024.

ii. The adjudication proceedings suffer from gross violation of the principles of natural justice. Despite repeated requests, the relied upon documents were not furnished to the Petitioners, thereby depriving them of an effective opportunity to defend themselves. Further, several adjournments became necessary on account of the serious medical condition of the proprietor of Petitioner No.1 and the prevailing COVID-19 pandemic, which circumstances were not duly considered by the Adjudicating Authority.

iii. Insofar as W.P.(C.) No.16149/2023 is concerned, the continuation of adjudication proceedings pursuant to the Second SCN is barred by Section 28(9) of the Act. The statutory period prescribed for adjudication had expired and the subsequent extension granted by the competent authority was neither valid in law nor communicated to the Petitioners. Further, the failure to communicate the extension order vitiates the continuation of the proceedings.

iv. The Respondents cannot derive any benefit from placing the matter in the Call Book pursuant to the CBIC Instruction dated 17.03.2021. The statutory timelines prescribed under Section 28 of the Act cannot be defeated by executive instructions and that the proceedings had become time-barred even otherwise.

v. The Respondents themselves had treated both SCNs as constituting one composite adjudication by appointing a common Adjudicating Authority and issuing common notices of hearing. Having adopted such a course, it was not open to the Respondents to segregate the proceedings after the stay granted by this Court and adjudicate only one of the SCNs.

14. *Per contra*, Learned Senior Standing Counsel representing the Respondents, whose submissions were substantially on similar lines, contended as under:

i. Both Writ Petitions are misconceived and deserve to be dismissed. The adjudication proceedings have been conducted strictly in accordance with the statutory framework and that the Petitioners themselves are responsible for the delay in conclusion of the proceedings.

ii. Multiple opportunities of personal hearing were granted to the Petitioners on different dates, however, the Petitioners repeatedly sought adjournments and failed to participate in the proceedings. The Petitioners have approached this Court without disclosing their own conduct and, therefore, are not entitled to any equitable relief in exercise of writ jurisdiction.

iii. The challenge founded upon Section 28(9) of the Act is misconceived. After the matters were transferred to the Call Book pursuant to the CBIC Instruction dated 17.03.2021 and subsequently withdrawn therefrom following the amendments introduced by the Finance Act, 2022, a fresh period for adjudication became available under Section 28(9A) of the Act. The competent authority validly extended the period for adjudication on 06.03.2023 and, therefore, the proceedings pursuant to the Second SCN remained well within the prescribed statutory period.

iv. There is no statutory requirement under Section 28(9) of the Act mandating communication of the order extending the period of adjudication to the noticee. Reliance was placed upon the decision of this Court in ***Pranij Heights India Pvt. Ltd. v. Joint Commissioner of Customs***[2], wherein it was held that mere non-communication of the extension order does not invalidate either the SCN or the adjudication proceedings. Reliance was also placed upon the decision of the Punjab and Haryana High Court in ***Shri Ram Agro Chemicals Pvt. Ltd. v. Union of India & Ors.***[3], which has been followed by this Court.

v. The Petitioners' reliance upon the pending proceedings before the Supreme Court in ***Union of India & Ors. v. GMR***

[2] 2025:DHC:11343-DB
[3] 2019 SCC OnLine P&H 4918

Airport Infrastructure Ltd.[4] and the judgment in ***Vos Technologies India Pvt. Ltd. v. The Principal Additional Director General & Anr.***[5] is wholly misplaced. These matters relate to the statutory framework existing prior to the amendments introduced by the Finance Act, 2018, whereas the present proceedings are governed by the amended provisions of Section 28 and consequently stand on an entirely different footing.

vi. Insofar as the challenge to the Impugned Order dated 01.02.2024 is concerned, the interim order passed by this Court on 14.12.2023 was confined only to further proceedings pursuant to the Second SCN and did not operate as a restraint upon adjudication of the First SCN. The two SCNs are distinct proceedings, notwithstanding that they originated from the same investigation, and there existed no legal impediment to the Adjudicating Authority proceeding with the First SCN.

15. No other submissions were advanced on behalf of the learned Senior Standing Counsel and learned Counsel representing the parties.

ANALYSIS AND FINDINGS:

16. The controversy before this Court arises in somewhat peculiar circumstances. Both the First SCN and the Second SCN admittedly emanate from the same investigation undertaken by the DRI. Both were assigned to the same Adjudicating Authority. They were also taken up together for adjudication.

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[4] Special Leave Petition (Civil) No.5392/2025
[5] 2024:DHC:9493:DB

17. It is not in dispute that the two SCNs were issued on different dates. They relate to different subject matters. The First SCN concerns the goods seized during the course of investigation and proposes confiscation and consequential penalties. The Second SCN concerns earlier imports and proposes recovery of customs duty, interest and penalty under Section 28 of the Act. Each SCN, therefore, has an independent statutory foundation and gives rise to a separate adjudicatory proceeding.

18. Merely because both SCNs originate from the same investigation, or because they were entrusted to a common Adjudicating Authority and heard together for administrative convenience, they do not lose their separate legal identity. No provision of the Act has been brought to our notice which mandates that such notices must necessarily culminate in one composite order or that adjudication of one cannot proceed independently of the other.

19. Adverting to the principal submission urged on behalf of the Petitioners in W.P.(C.) No.5024/2024. It was argued that once this Court stayed further proceedings pursuant to the Second SCN by order dated 14.12.2023, the Respondents were precluded from proceeding with adjudication of the First SCN.

20. This Court is unable to accept the aforesaid submission. A plain reading of the interim order dated 14.12.2023 shows that the stay granted by this Court was confined to further proceedings pursuant to the Second SCN. The order neither stayed the adjudication of the First SCN nor restrained the Adjudicating Authority from proceeding in

respect thereof. An interim order has to be construed on its own terms. It is not permissible to enlarge its scope by implication.

21. In the absence of any express restraint operating against the adjudication of the First SCN, the mere pendency of W.P.(C.) No.16149/2023 could not, by itself, prohibit the Adjudicating Authority from proceeding with the First SCN.

22. Learned counsel representing the Petitioners also submitted that the Respondents themselves had treated both SCNs as constituting one composite adjudication and therefore could not subsequently segregate the proceedings.

23. This Court is unable to agree. Administrative convenience in conducting a common hearing cannot override the statutory character of two independent proceedings. The appointment of a common Adjudicating Authority or issuance of common notices of hearing cannot create a legal bar against separate adjudication if otherwise permissible under the statute.

24. The Petitioners have also assailed the Impugned Order on the ground that the relied upon documents were not supplied despite repeated requests and that adequate opportunity of hearing was denied, particularly in view of the medical condition of the proprietor of Petitioner No.1 and the prevailing COVID-19 pandemic.

25. The Respondents, however, dispute these assertions. According to them, several opportunities of personal hearing were granted over a considerable period and the Petitioners repeatedly sought adjournments without participating in the proceedings.

26. These rival assertions raise disputed questions relating to the conduct of the adjudication proceedings. Whether all relied upon documents were supplied, whether sufficient opportunity was granted, whether the adjournments sought were justified and whether any prejudice was occasioned thereby are matters which necessarily require examination of the adjudication record.

27. Such questions are ordinarily examined by the statutory appellate authority while considering the validity of the adjudication order. They are not issues which persuade this Court to bypass the statutory appellate mechanism provided under the Act.

28. This Court is equally unable to accept the submission that the Impugned Order should be set aside solely because it was passed after the interim order dated 14.12.2023. As noticed hereinabove, the interim protection granted by this Court did not extend to the First SCN.

29. Once the Impugned Order has been passed, the Act provides a complete appellate mechanism against such order before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT). CESTAT is competent to examine every contention available to the Petitioners, including those relating to violation of the principles of natural justice, non-supply of relied upon documents, appreciation of evidence and legality of the findings recorded by the Adjudicating Authority.

30. It is well settled that where an effective and efficacious statutory remedy is available, the writ jurisdiction under Article 226 of the Constitution is ordinarily not exercised unless exceptional circumstances are made out. No such exceptional circumstance has

been demonstrated in the facts of the present case insofar as the challenge to the Impugned Order is concerned.

31. In view of the aforesaid discussion, this Court finds no ground to entertain the challenge to the Impugned Order in exercise of our extraordinary writ jurisdiction under Article 226 of the Constitution. The grievances urged by the Petitioners, whether relating to the legality of the adjudication, the alleged violation of the principles of natural justice, non-supply of relied upon documents, or the findings recorded in the Impugned Order, are all matters which can appropriately be examined by the CESTAT in exercise of its appellate jurisdiction. This Court, therefore, declines to interfere with the Impugned Order in writ proceedings and leave it open to the Petitioners to avail the statutory remedy available under the Act.

32. This Court now turns to the issues raised in W.P.(C.) No.16149/2023.

33. The principal challenge therein is founded upon Section 28(9) of the Act. According to the Petitioners, the proceedings pursuant to the Second SCN have become time-barred. It is their contention that the statutory period for adjudication expired and the matter could not validly be kept pending in the Call Book. It is also argued that the extension dated 06.03.2023 is contrary to law and that, in any event, such extension having never been communicated to them cannot sustain the proceedings.

34. The Respondents controvert each of these submissions. According to them, the proceedings were validly transferred to the Call Book pursuant to the CBIC Instruction dated 17.03.2021. After

the Finance Act, 2022, and the consequential notification, the proceedings were withdrawn from the Call Book. Thereafter, the period available for adjudication recommenced under Section 28(9A) of the Act. Since a large number of matters stood revived simultaneously, the competent authority validly granted extension on 06.03.2023. It is further submitted that there exists no statutory requirement requiring communication of such extension to the noticee.

35. The Respondents have also relied upon the decision of this Court in ***Pranij Heights India*** *(supra)* as well as the decision of the Punjab and Haryana High Court in ***Shri Ram Agro Chemicals*** *(supra)* in support of the proposition that non-communication of the extension order does not invalidate the proceedings. The Petitioners, on the other hand, have relied upon the pendency of proceedings before the Supreme Court in ***GMR Airport Infrastructure*** *(supra)* and other connected matters.

36. In the considered opinion of this Court, it would not be appropriate to render any conclusive finding on the aforesaid questions in the present proceedings. This Court, therefore, refrains from expressing any opinion on the merits of the rival contentions advanced in relation to the Second SCN.

37. The issues raised by the Petitioners involve the interpretation of the amended provisions of Section 28 of the Act, the scope and effect of Section 28(9A), the legal consequences of transfer of matters to and withdrawal from the Call Book, the validity of the extension granted by the competent authority on 06.03.2023, and the effect, if any, of

non-communication of such extension. These questions arise directly in the adjudication proceedings pursuant to the Second SCN and are yet to be examined by the Adjudicating Authority.

38. Since the adjudication proceedings pursuant to the Second SCN are yet to attain finality, any observation made by this Court on the aforesaid issues may have a bearing on the decision to be rendered by the Adjudicating Authority. This Court is, therefore, of the view that it would be appropriate to permit the statutory proceedings to reach their logical conclusion, leaving it open to the Petitioners to avail of such remedies as may be available to them in law against the final adjudication order, if occasion so arises.

39. This Court accordingly expresses no opinion on the merits of the rival submissions concerning Section 28 of the Act, the Call Book mechanism, the extension dated 06.03.2023, the requirement of communication thereof, or the applicability of the decisions relied upon by the respective parties. All questions of fact and law are kept open to be urged before the appropriate forum in accordance with law.

CONCLUSION:

40. For the reasons aforesaid, W.P.(C.) No.5024/2024 is disposed of without interference with the Impugned Order dated 01.02.2024 in exercise of the writ jurisdiction under Article 226 of the Constitution of India. The Petitioners are, however, granted liberty to avail the statutory remedy of appeal before the CESTAT against the Impugned Order, if so advised.

41. In the event such an appeal is preferred, it shall be open to the Petitioners to urge all grounds available to them in law, including those urged before this Court. It is expected that, if any application for condonation of delay or for interim relief is filed, the same shall be considered by the learned Tribunal on its own merits and in accordance with law.

42. W.P.(C.) No. 16149/2023 is also disposed of. Consequently, the interim order dated 14.12.2023 stands vacated and the Respondents shall be at liberty to proceed with the adjudication of Show Cause Notice No.16/2020 dated 11.05.2020 in accordance with law.

43. Before passing any final order pursuant to Show Cause Notice No.16/2020 dated 11.05.2020, the Adjudicating Authority shall afford the Petitioners an effective opportunity of hearing and shall ensure due compliance with the principles of natural justice in accordance with law.

44. It is clarified that all contentions of the parties on merits, including those relating to limitation under Section 28 of the Customs Act, 1962, the effect of placing the matter in the Call Book, the extension granted under Section 28(9), the alleged non-supply of relie -upon documents and all other questions arising in the adjudication proceedings, are expressly kept open. The Adjudicating Authority shall consider the same independently and in accordance with law, uninfluenced by any observations contained in the present judgment.

45. It is further clarified that the observations made in the present judgment are confined to the question of exercise of writ jurisdiction and shall not be construed as an expression on the merits of the

controversy pending either before the Adjudicating Authority or, if occasion so arises, before the CESTAT.

46. The pending application shall stand closed.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

AUGUST 07, 2026
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