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

% ***Judgment pronounced on: 03.11.2025***

\+ **W.P.(C) 9699/2025 and CM APPL.40674/2025, CM APPL. 52426/2025, CM APPL.66105/2025**

MR. SANDEEP DHANUKA ..... Petitioner

Through: Mr. Sidharth Luthra, Sr. Advocate along with Mr. Sidhant Kumar, Ms. Devika Mohan, Ms. Manyaa Chandok and Mr. Om Batra, Advocates.

versus

DIRECTORATE OF REVENUE INTELLIGENCE & ANR. ..... Respondents

Through: Mr. Anurag Ojha, SSC, Mr. Dipak Raj, Mr. Shashank Kumar, Ms. Garima Kumar, Mr. Kuldeep Mishra and Mr. Deep Raj, Advocates for R-1.

Mr. Ripudaman Bhardwaj, CGSC, Mr. Kushagra Kumar and Mr. Amit Kumar Rana, Advocates for UOI.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

JUDGMENT

1. The present petition has been filed by the petitioner seeking quashing of the Look Out Circular (LOC) issued at the behest of respondent no. 1/ the Directorate of Revenue Intelligence (DRI), against the petitioner.

2. During the course of arguments on 11.08.2025, it was brought to the attention of this Court that the LOC was issued in the year 2015. Taking note of this submission, this Court directed the respondents to place on record the LOC against the petitioner. The relevant portion of the order

dated 11.08.2025 reads as under –

> *"Let the existing LOC against the petitioner be also placed on record by the respondent before the next date of hearing."*

3. In compliance with the aforesaid directions, respondent no. 1 filed an Additional Affidavit dated 28.08.2025, wherein it was disclosed that a Look Out Circular was first issued against the petitioner on 06.11.2015, which had been renewed or amended from time to time. It was further stated that "*Ultimately on 28.05.2025 the said LOC was further opened.*"

4. However, during the subsequent hearing on 15.10.2025, Mr. Ripudaman Bhardwaj, learned CGSC for respondent no. 2 clarified that the initial LOC issued in 2015 had in fact lapsed in 2018, and that a fresh LOC had been issued only on 28.05.2025.

5. The petitioner has approached this Court challenging the said LOC. The petitioner is a foreign national of Indian origin holding an OCI Card. He resides in Hong Kong and is the sole shareholder and director of Century Exports Limited (CEL), a company registered in Hong Kong, involved in the business of international trading of goods including export of coal, metals and electronic goods. His mother and younger brother are residents of Jharsuguda, Odisha, and he owns substantial movable and immovable assets within India.

6. It is submitted that between 2011 and 2015, CEL supplied various consignments of coal to two Indian companies, both of whom are engaged in power generation in India. It is averred that these transactions were carried out pursuant to duly executed contracts and supported by proper invoices which were settled through regular bank channels.

7. It is further submitted that all consignments supplied by CEL were

duly received and utilized by the concerned companies in India and at no point did any dispute arise between CEL and these entities regarding the quality, quantity, or valuation of the coal supplied.

8. However, respondent no. 1, suspecting over-valuation and inferior quality of coal supplied by CEL, registered a case under File No. DRI/MZU/F/INT-154/2014 against CEL and the power generating companies *viz.* Reliance Infrastructure Limited (RIL) and Rosa Power Supply Company Limited (Rosa Power).

9. Subsequently, the respondent no. 1 issued a Show Cause Notice dated 31.08.2016 to CEL, RIL, and Rosa Power, proposing to redetermine the value of coal and impose penalties under Sections 112 and 114AA of the Customs Act, 1962. The relevant portion of the show cause notice is reproduced as under –

> *"37. Now, therefore,*
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> *37.1 M/s Reliance Infrastructure Ltd. (R- Infra) are hereby called upon to show cause, in writing, to the Adjudicating Authority, i.e. the Principal Commissioner / Commissioner of Customs (Preventive), Mumbai, having his office at New Custom House, Ballard Estate, Mumbai - 400 001, within thirty days of receipt of this Show Cause Notice, as to why:-*
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> > *(a) The declared CIF value of Coal consignments imported at Dahanu Port, as detailed in 'Annexure-A to this Notice, having aggregate declared value as Rs.860,46,25,154/-, should not be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, read with Section 14 of the Customs Act, 1962;*
> >
> > *(b) Value of the goods as at (a) above should not be re-determined at their actual CIF value as indicated in 'Annexure-A' to this Notice, with the aggregate value proposed to be re-determined as Rs. 715,44,68,198/-, in terms of Section 14 of the Customs Act, 1962, read with Rule 3(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007;*
> >
> > *(c) Coal consignments covered under Annexure-A' to this Notice,*

with the aggregate declared CIF value of Rs.860,46,25,154/- and actual determined CIF Value of Rs. 715,44,68,198/-, should not be held liable to confiscation under Section 111(m) of the Customs Act, 1962. However, the Coal is not physically available having been consumed in their coal based thermal power plant at Dahanu;

(d) Penalty under Section 112 (a) & (b) read with Section 112(iii) of the Customs Act, 1962 should not be imposed on them in relation to the above goods; and

(e) Penalty under Section 114 AA of the Customs Act, 1962 should not be imposed on them in relation to the above goods.

37.1.1 S/Shri Mahesh Chand, Vibhav Agarwal and Sandeeep Kumar Dhanuka are required to show cause to the Adjudicating Authority i.e. the Principal Commissioner/Commissioner of Customs (Preventive), Mumbai, having his office at New Custom House, Ballard Estate, Mumbai - 400 001, as to why:-

(a) Penalty under Section 112 (a) read with Section 112(iii) of the Customs Act, 1962 should not be imposed on each one of them in relation to the goods mentioned in 'Annexure-A' to this Notice; and

(b) Penalty under Section 114AA of the Customs Act, 1962 should not be imposed on each one of them in relation to the goods mentioned in 'Annexure-A' to this Notice.

37.2 M/s Rosa Power Supply Co. Ltd. (Rosa) are hereby called upon to show cause, in writing, to the Adjudicating Authorities mentioned in Column (7) of the "Table-38' below for the respective imports mentioned against each, within thirty days of receipt of this Show Cause Notice,

'Table-38'

Sr. No.	Port of Import	No. of Bs/E	Declared CIF Value (Rs.)	Actual CIF Value proposed to be determined (Rs.)	Annex. No.	Adjudicating Authority
1	2	3	4	5	6	7
1.	Navlakhi	09	446,29,59,011	370,44,29,753	BI[1] to BI[9]	The Principal Commissioner / Commissioner of Customs (Preventive), Jamnagar, Sharda House, Bedi Bunder, Opp. Panchvati, Jamnagar – 361 002.
2.	Pipavav	23 (21 Vessels)	721,41,11,144	604,69,99,103	BIII[1] to B-III[21]	
3.	Kandla	06	277,99,78,918	229,45,66,271	BII [1] to BII[6]	The Principal Commissioner / Commissioner of Customs, Kandla Custom House, Near Balaji Temple, Kandla – 370 210.
TOTAL		38 (36 Vessels)	1445,70,49,073	1204,59,95,127		

as to why:-

(a) The declared CIF value of the goods of respective consignments (detailed in 'Annexures-BI, BII & BIII' to this Notice, having aggregate declared value as in Column 4 of the 'Table-38' above, should not be rejected under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, read with Section 14 of the Customs Act, 1962;

(b) Value of the goods as at (a) above should not be re-determined at the actual CIF value as indicated in 'Annexures-BI, BII & BIII' to this Notice, with aggregate value proposed to be re-determined as in Column 5 of the "Table-38' above, in terms of Section 14 of the Customs Act, 1962, read with Rule 3(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007;

(c) Goods covered under the respective consignments mentioned against each having aggregate declared CIF value as in Column 4 of the 'Table-38' above and actual CIF value to be determined as in Column 5 of the 'Table-38' above, as Rs.1445,70,49,073/- and Rs. 1204,59,95,127/-, respectively, should not be held liable to confiscation under Section 111(m) of the Customs Act, 1962. However, the Coal is not physically available having been consumed in their coal based thermal power plant at Rosa Village;

(d) Penalty under Section 112 (a) & (b) read with Section 112(ili) of the Customs Act, 1962, should not be imposed on them in relation to the above goods; and

(e) Penalty under Section 114 AA of the Customs Act, 1962 should not be imposed on them in relation to the above goods.

37.2.1 S/Shri Vibhav Agarwal and Sandeep Kumar Dhanuka are required to show cause to the Adjudicating Authorities, as mentioned in Column 7 of 'Table-38' above for respective imports mentioned against each, as to why:-

(a) Penalty under Section 112 (a) read with Section 112(iii) of the Customs Act, 1962 should not be imposed on each one of them in relation to the goods mentioned in 'Table-38' above; and

(b) Penalty under Section 114 AA of the Customs Act, 1962 should not be imposed on each one of them in relation to the goods mentioned in 'Table-38' above.

38. Each of the above noticees is required to submit a written reply to the respective Adjudicating Authorities within 30 days from the date of receipt of this notice. In their written reply, the noticees may also indicate as to whether they would like to be heard in person. In case no reply is received within the time limit stipulated above or any further time which may be granted by respective Adjudicating Authorities and/or if nobody appears for personal hearing, when the case is posted for the same, the case will be decided ex-parte on the basis of evidence on record and without any further reference to the noticees.

39. The relied upon documents (RUD) for issuance of this Notice are listed in 'Annexure-R', soft copies of which are being supplied along-with this Notice in a Compact Disc (CD). If, before filing replies to this Notice, any of the noticees desire to inspect any documents, which are relied upon, they may do so with prior appointment with the Assistant Director, F-Cell, 3rd Floor, 13, Sir Vithaldas Thackersey Road, New Marine Lines, Mumbai 400 020, on any working day.

40. This Show Cause Notice pertains to the Coal imported in 73 consignments vide 75 Bills of Entry, as listed in 'Annexures-A, BI, BII & BIII' to this Notice.

41.Department reserves its right to amend, modify or supplement this Notice at any time prior to adjudication of the same.

42. This Show Cause Notice is being issued under section 124 of the Customs Act, 1962 without prejudice to any other action that may be taken

in respect of the above goods and / or the persons / firms mentioned in the Notice under the provisions of the Customs Act, 1962 and / or any other law for the time being in force in the Republic of India."

10. It is submitted by the petitioner that the said notice was never served upon the petitioner or his company.

11. It is also submitted that the petitioner came to know that the proceedings under the said Show Cause Notice had already culminated in a favourable adjudication and learned Principal Commissioner of Customs, Adjudication, Mumbai by the Order in Original exonerated the petitioner of any wrongdoing. The relevant portion of the Order in Original dated 29.11.2023, is reproduced as under –

> *"4.33 In view of my findings above and relying upon above mentioned judgments, I cannot accept the contention that, the declared value does not appear to satisfy the requirements of the Transaction Value under Section 14 of the Customs Act, 1962 read with Rule 3(1) and 2(2) (vi) of the CVR 2007 and needs to be arrived at in accordance with the provisions of sub-section (1) of Section 14 of the Customs Act, 1962 read with sub-rule (1) of Rule 3 of the CVR 2007.*
>
> *4.34 Show Cause Notices proposes penalty under section 112 and 114 AA of Customs Act 1962 against all the noticees, which are discussed here.*
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> *Penalty under section 112 of customs Act 1962 is imposable on a person*
>
> *a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or*
>
> *(b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,*
>
> *I have already held that goods are not liable for confiscation. Therefore issue of Imposing penalty of any noticee under Section*

112 of Customs Act 1962 does not arise.

4.34.1 Section 114AA of Customs Act 1962 is reproduced below :-

SECTION 114AA. Penalty for use of false and incorrect material. - If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.]

The SCN, though has proposed penalty under section 114AA, but did not elaborate as to how this provision is attracted. Moreover when principle charge of overvaluation is not held sustainable, this penalty proposal cannot sustain, especially when no detailing is given in the SCN about false or incorrect declaration, statement or document and who has made, signed or used them. I therefore held that penalty under section 114AA is not imposable on any noticees.

Order :-

In view the foregoing discussions and findings, I pass the following order:

I drop all the proceedings against all noticees in respect SCN F. No. DRI/MZU/F/INT/154/2014.

This order has been passed without prejudice to any other action that may be taken against the above mentioned firms/ persons under the provisions of the Customs Act, 1962 and/or any other law, for the time being in force in India.

Sunil Jain
Principal Commissioner of Customs
Adjudication, Mumbai"

12. The petitioner also got to know that the Department's appeal against the said order in original was also dismissed by CESTAT, Mumbai, vide Order dated 25.03.2025 (Appellate Order–1) in Customs Appeal No. 85681 of 2025 (the petitioner, however, was not a party to these proceedings). The relevant portion of the order dated 25.03.2025 is reproduced as under –

"21. While the investigation may, and painstakingly so, have come up with secondary and tertiary transactions, there is nothing illegal in them. It certainly does not lie in the domain of a government agency, let alone

tax investigators, to direct that business be carried out in a particular way or that commercial intercourse must take the most direct route. We do not credit them with sufficient knowledge of the subject, adequate experience of contract finalization or capacity to invest in such ventures as to allow our judgement of what business should be permitted to be clouded by the inferences of the investigation into what they believe to be public interest. To even suggest that public interest should prevail over private business that is not at the receiving end of any exemptions or privileges is perverse. We have not been informed of any valid or logical reason to discredit the details of price determination narrated by Learned Counsel or that the employment of M/s Century Exports Ltd, and other intermediaries for a time, justified by reasons was not acceptable as explanation. An observation about commercial prudence, emanating from an investigation agency of the State, is not of adequate credence to be adjudged otherwise Likewise, the critique of adoption of index value of 'Richards Bay' or of 'Newcastle', merely for not adopting the Indonesian index, is nowhere near oracular as to permit tax intrusion into business expediency. We may conclude that the price negotiation leading to 'letters of award' in favour of the intermediaries have not been evidenced as contrived except through unconnected dots that, like the constellations, have to be imagined as much as sighted.

22. The grounds of appeal, to the extent concerned with justifying non-applicability of the leading judgements of disputes before the Tribunal, are not to be dignified by being even taken into consideration. To do so would be at the cost of judicial discipline and the obligation devolving on the Tribunal, especially on valuation and classification, in the appellate hierarchy of national jurisdiction. The attempt to have the findings therein reconsidered, after the Central Government withdrew its appeal in one and lost its appeal in the other, by a subordinate executive authority is not in keeping with respect owed to judicial determination. Both in the normative of business operations as well as in interpretation of laws, individuals may have, and are entitled to, their own opinion but to graft that viewpoint as institutional thinking is disservice to the institution of which they are custodians for a time as well as unacceptable from a tax administrator created by, and bound within, a taxing statute.

23. The scheme of valuation does not stand in support of the manner in which the value has been sought to be substituted in the notice. The facts evinced are not sufficient to tear down the weave of commercial engagement and for recourse, thereby, to discard of declared value. The mark-up is not of unreasonable magnitude as to suggest that transaction should be penalized. Even without pressing into service the law, as judicially determined, on jurisdictional competence and on evidentiary

value of documents for visiting penalties on the respondents under Customs Act, 1962, and as found in the impugned order too, the facts suffice to erase the proposals in the notice.

24. In the facts and circumstances, as set out supra, we find no merit in these appeals, seeking the impugned order to be set aside, and are, accordingly, dismissed."

13. Thereafter, respondent no. 1 preferred separate appeal, Customs Appeal No. 85683 of 2024, assailing the same Order in Original wherein the petitioner was made party. It is submitted that the CESTAT Mumbai, by its subsequent order dated 22.09.2025 (Appellate Order–2), once again upheld the Order in Original and further held that proceedings qua the petitioner were without jurisdiction. The relevant portion of the order is reproduced as under –

"10. Ex facie, we have no hesitation in holding that charges could not have been framed under section 124 against the respondent. We have perused the show cause notice as well as the review order leading to this appeal; nowhere is it to be found that the respondent was responsible personally, or that the company that he, purportedly, was an official in were, for any act in the territory of India in connection with the goods or any declaration/submission in relation to the impugned goods. Not only is it accepted law that offences or contraventions cannot be retrospectively legislated but also that, in such circumstances of extension of jurisdiction beyond the territory of India, arrogating of jurisdiction cannot be in breach of legislative restraint conditioned by the Constitution in Article 37 read with Article 51. The circumstances of the legislated incorporation and the consequences of executive action, insofar as adherence to mutual acknowledgement of sovereignty is concerned, must guide its application.

11. Outrightly, we see that such extension of jurisdiction does not attend upon goods but only on persons. It is no less evident that such extension is limited to offences and contravention. Customs law is, primarily, concerned with goods and persons are merely incidental to goods with concern only in the process relating to import or export of goods. From a perusal of Customs Act, 1962, which is bereft of definition of either 'offence' or 'contravention', we are compelled to conclude that this extension is restricted to occurrence of these expressions in the statute. We cannot also be impervious to other incorporations effected by the

same amending enactment which, too, may have prompted this particular expansion of jurisdiction that, in effect, transmits criminalization under municipal law to persons residing in the exclusive sovereignty of another State. Of particular contextual relevance is the incorporation of section 109A of Customs Act, 1962 which permits overseeing of commission of an offence, peculiar to India, in overseas territory. We may well speculate this to be particular cause and intent of the concomitant amendment in section 1 of Customs Act, 1962. The limited submission on the issue of date of incorporation of the additional jurisdiction vis-à-vis the proceedings initiated against the respondent and sought to be reinstated in this appeal does not require such an extensive foray into legislative intent.

12. We find that the exclusive deployment of 'offence' in Customs Act, 1962 lies only in chapter XVI of Customs Act, 1962 which is not of relevance to the impugned proceedings. The other contingency for extending jurisdiction is 'contravention' and contravention is contravention only if penalty attaches to such contravention. Customs Act, 1962 is, first and foremost, an enabling statute: for levy and collection of a constitutionally sanctioned impost. As with all such statutes, there are processes that, mutually between the tax collector and tax payer, convenience fulfillment of this enacted sanction to levy and while noncompliance with the levy is, undoubtedly, contravention, some of the process may also be. These contraventions, carrying penalties as they do, are specifically provisioned in, or generally occasioned by, chapter XIV of Customs Act, 1962. As far as section 111 of Customs Act, 1962 is concerned, the contravention warranting confiscation and, thereby, imposition of penalty under section 112 of Customs Act, 1962 is limited to episodes after entry into the territorial waters of India. That leaves just section 117 and section 114AA of Customs Act, 1962 which, at best, may be contraventions for which extra-territorial authority is assumed. Here, too, there is need for caution as the consequence of any penalty, that remains unacknowledged and unpaid, is recovery without which the jurisdiction is left incomplete. In such instances, recovery from contravener based on foreign soil requires assistance from another sovereign government. Such assistance may flow from treaty obligations or from domestic law of the State concerned. At all events, the contravention will have to be established beyond reasonable doubt for assurance of such assistance and not preponderance of probability that prevails in adjudicatory competence. Our purpose in expounding at such length on this aspect is to demonstrate that mere provisioning in section 1 of Customs Act, 1962 is not sufficient to acknowledge such recourse in a show cause notice. Mere provisioning is not authority under law because unimplementability, by jurisdictional conflict, reduces dignity of

a law that tax authorities are bound to execute to its logical conclusion; anything less would be travesty.

13. Having delved into the limitations inherent in the amended law, and legislative cognizance thereof, the absence of retrospective application is not academic speculation but, from lack of legislative assertion, on unavoidable conclusion. In the circumstances of ab initio lack of jurisdiction, concluded investigation and adjudicated termination, subsequent affirmation thereto by the Tribunal of goods and declaration relating to goods not in contravention of Customs Act, 1962, this appeal is without merit warranting dismissal thereof"

14. It is submitted that the petitioner continued to travel to India frequently even after conclusion of the aforesaid proceedings. It is pointed out that his recent travel record from 12.04.2025 to 26.04.2025 establishes that he faced no immigration restrictions whatsoever. However, on 31.05.2025, upon arrival at Indira Gandhi International Airport, New Delhi, from Hong Kong along with his family, the petitioner was detained by immigration authorities. He was informed that a Look-Out Circular had been issued against him at the request of respondent no. 1.

15. Thereafter the petitioner was taken to the headquarters of the respondent no. 1 at the Drum Shape Building, I.P. Bhavan, I.P. Estate, New Delhi. Subsequently, a summons dated 31.05.2025 was issued by the Senior Intelligence Officer, DRI, Delhi in the case registered by the DRI, Mumbai. Statement of the petitioner was recorded under Section 108 of the Customs Act, 1962.

16. It is submitted that at the time of recording his statement, the petitioner was informed of the Show Cause Notice and the purported summons issued in 2015 and 2016 against the petitioner. The petitioner was also informed that the investigation is being undertaken in relation to the coal supplied by the petitioner to RIL and Rosa Power from 2011-2015.

17. It is stated that on 31.05.2025, the petitioner was served with another summons directing him to appear before the respondent no.1 on 06.06.2025 for recording additional statement and producing additional documents. It is submitted that the petitioner by its letter requested the respondent no.1 to defer his scheduled appearance on 06.06.2025 owing to some family engagements. Accordingly, it is submitted that the respondent no.1 issued summons dated 08.06.2025 directing the petitioner to appear on 13.06.2025 along with relevant documents. Consequently, the petitioner appeared before the respondent no.1 on 13.06.2025.

18. Subsequently, the respondent no.1 served another summons on the petitioner, directing him to appear on 19.06.2025 to tender oral evidence and provide documents.

19. The petitioner by his email dated 17.06.2025 requested the respondent no.1 to permit him to appear on 18.06.2025 instead of 19.06.2025. It is submitted that on 18.06.2025, the petitioner appeared before the respondent no.1 and submitted the relevant documents.

20. The case of the petitioner is that the LOC ought to be quashed since (a) at present there are no proceedings or investigation pending against the petitioner; (b) issuance of the LOC is contrary to the Office Memorandum dated 22.02.2021; (c) the petitioner has complied with the summons; and (d) the petitioner is not a flight risk.

21. It is averred that the impugned LOC was issued in connection with the alleged proceedings arising out of the aforementioned SCN. However, the proceedings under the SCN have been conclusively adjudicated in favour of the petitioner. It is averred that since no proceedings are pending against the petitioner, there exists no legal basis for the continuance of the LOC.

22. While countering the allegation by respondent no. 1 that the petitioner was travelling internationally between 2015 and 2018 during the subsistence of the first LOC, it is submitted that the petitioner did not travel to India during that period, and in any event, the first LOC issued on 06.11.2015 was based on the petitioner's Indian passport, which he had renounced on 09.04.2013 upon relinquishing his citizenship.

23. It is also submitted that Clauses (H) and (I) of the Office Memorandum dated 22.02.2021 provide that an LOC may be issued only in cases involving cognizable offences under the applicable law.

24. It has been pointed that the allegations against the petitioner in the SCN relate to mis-declaration and overvaluation of imported coal, which, at best, constitutes an offence under Section 135 of the Customs Act, 1962. However, Section 104(4) of the Act enumerates which offences are cognizable, and Section 104(5) explicitly provides that all other offences shall be non-cognizable. Mis-declaration or overvaluation of goods constitutes a non-cognizable offence under the Customs Act. Consequently, the issuance of an LOC in such circumstances is directly contrary to the binding guidelines contained in the Office Memorandum.

25. Reliance has been placed on ***Ashutosh Sharma v. Union of India & Anr***., W.P. (C) 7769/2022 and ***Hulas Rahul Gupta v. Bureau of Immigration & Ors***., 2023 SCC OnLine Del 8349.

26. The petitioner states that he never received any summons in relation to the SCN prior to his detention. It is further highlighted that the summons dated 21.07.2016 remained undelivered.

27. It is submitted that the petitioner was made aware of the proceedings only upon being detained on 31.05.2025 at the Indira Gandhi International

Airport, New Delhi. Upon such knowledge, he fully cooperated with respondent no. 1 and appeared on three occasions, namely, 31.05.2025, 13.06.2025, and 18.06.2025, and submitted all documents in his possession. To further assist the investigation, the petitioner engaged a law firm in Hong Kong to retrieve bank records sought by the DRI. However, the concerned banks, vide letters dated 07.07.2025 and 10.07.2025, informed that they do not retain documents older than seven years in compliance with Section 51C of the Hong Kong Inland Revenue Ordinance.

28. It has further been emphasised that the petitioner has deep and continuing connections with India, having travelled to India 22 times in the past four years. His immediate family, including his mother and brother, reside in India. Therefore, there is no rational basis to apprehend that the petitioner poses any flight risk.

29. It is submitted that this Court has territorial jurisdiction to entertain and adjudicate the present petition as the cause of action arose within the territorial jurisdiction of this Court, the petitioner was detained in Delhi, his statement was recorded in Delhi and summons were also issued in Delhi. Further, respondent no. 1's head office is in New Delhi, where officers are reportedly investigating the petitioner, as indicated by summons dated 31.05.2025.

30. Reliance is placed on ***Jayaswals Neco Limited v. Union of India***, 2007 SCC OnLine Del 2094.

31. Learned counsel for the respondent no. 1 on the other hand has made the following submissions –

a. The present petition is not maintainable before this Court as the impugned Look Out Circular (LOC) was issued by the Directorate of

Revenue Intelligence (DRI), Mumbai Zonal Unit (MZU), in relation to investigation concerning overvaluation in import of coal. The mere fact that the petitioner was detained at Indira Gandhi International Airport, New Delhi, while attempting to travel abroad, does not create jurisdiction in favour of this Court. The interception or communication of the LOC in Delhi is only an incidental or consequential occurrence and cannot be equated to the accrual of cause of action. Reliance has been placed on ***Union of India v. Adani Exports Ltd***., (2002) 1 SCC 567.

b. It is further submitted that the jurisdiction of High Court for questioning LOC or of subordinate court as referred to in paragraph 4(d) of OM-2021 is governed by the situs of originating authority and not by the place of interception or residence of person against whom LOC is opened.

c. It is further submitted that the petitioner has approached this Court with unclean hands, having deliberately concealed material facts regarding his past conduct and prior violations of Look Out Circulars. As stated in the Additional Affidavit dated 28.08.2025 (paragraphs 3 to 6), the petitioner travelled abroad multiple times during the subsistence of a valid LOC and has suppressed this information.

d. While submitting that Article 226 of the Constitution of India would be liable to be entertained only in case of persons who come with clean hands and not in favour of the persons who present twisted facts or misrepresent the true and correct picture on record, the respondents have relied on ***K.D. Sharma v. Steel Authority of India Ltd***., (2008) 12 SCC 481, ***Ramjas Foundation v. Union of India***, (2010) 14 SCC

38, and ***Prestige Lights Ltd. v. State Bank of India***, (2007) 8 SCC 449.

e. Further it is the case of the respondent that the LOC issued against the petitioner is fully justified in view of the ongoing investigation under the Customs Act, 1962, pertaining to large-scale overvaluation of coal imports and diversion of foreign exchange. It is pointed that SCN was issued in respect of 73 vessels and investigation in relation to 44 vessels are ongoing.

f. It is submitted that although the CESTAT has passed an order dated 25.03.2025 in relation to 73 vessels, the said order is under challenge before the Supreme Court (Diary No. 47827/2025). Thus, the issue concerning overvaluation vis-a-vis contravention of Section 111(m) of the Customs Act, 1962 has not attained finality.

g. Investigations concerning the 44 vessels as well as overseas enquiry in respect of 55 Vessels issued through Letter Rogatory (LR) dated 07.08.2015 has been issued by Additional Chief Metropolitan Magistrate, 19th Court, Esplanade, Mumbai to Hong Kong are still underway.

h. It is further averred that the petitioner's interpretation that the OM permits issuance of LOC only in cases of cognisable offences is erroneous. Paragraph 6(L) of OM-2021 authorises issuance of LOC where the departure of a person would be detrimental to economic interests or economic interest of nation.

i. The petitioner's claim of compliance with summons is false. Until his apprehension under the LOC, he has chosen to remain absent, no summons for present investigation was complied with.

j. The petitioner is a proven flight risk, his frequent travels despite LOCs in operation has perfected his flight risk.

k. The Directorate of Revenue Intelligence, Mumbai, initiated investigations based on intelligence inputs revealing that certain companies within the Reliance ADA Group, namely, Reliance Infrastructure Ltd. and Rosa Power Ltd., had imported Indonesian coal at inflated prices through intermediary invoicing by Century Exports Ltd., Hong Kong (CEL, HK). The petitioner, Mr. Sandeep Dhanuka, is the sole director and shareholder of CEL, HK and is therefore directly responsible for these transactions.

l. Despite repeated summonses dated 02.01.2015, 13.04.2015, 25.04.2016, 11.05.2016, 23.05.2016, 02.06.2016, 12.07.2016, and 21.07.2016, the petitioner failed either respond to the said summonses or join the investigation. Consequently, an LOC was issued against his Indian passport (Z2139701). Subsequently, having acquired Hong Kong citizenship (passport no. HJ2144019). Therefore, the LOC which was issued earlier was updated based on his Hong Kong passport. Upon his arrival in New Delhi on 31.05.2025, he was detained under the LOC. Though his statement was recorded and further summons issued for 06.06.2025 and 13.06.2025, he failed to submit documents citing personal constraints. He remains non-compliant to date.

m. The acts attributed to the petitioner are not confined to contraventions of Section 111(m) alone but also attract penal consequences under Sections 112, 132 and 135 of the Customs Act, 1962. The ongoing investigation demonstrates that the modus operandi adopted by the

petitioner and others has caused grave prejudice to public revenue and directly undermines India's economic interests.

n. The petitioner's argument that the ongoing proceedings are barred by limitation under Section 28 of the Act is misconceived. The present investigation pertains to confiscation and penalty under Sections 111(m), 112 and 124 of the Customs Act, for which no limitation is prescribed. A person who has persistently evaded summons and frustrated the investigation cannot be permitted to invoke the plea of limitation or procedural lapse. Reliance is placed on ***Ghanshyam Pandey v. Union of India***, MANU/DE/0922/2023.

o. It is further submitted that the reliance placed by the petitioner on the judgment in ***Puja Chadha v. Directorate of Enforcement***, 2025:DHC:8787, is misplaced. That case dealt with the impropriety of issuing an LOC against a person merely due to familial association with an accused. In the present case, the petitioner is himself directly implicated.

p. In view of the foregoing, it is submitted that the petitioner's plea for quashing of the LOC is devoid of merit.

32. The preliminary contention of the respondent is that the present petition is not maintainable before this Court for want of territorial jurisdiction and on the principle of forum conveniens. This Court, however, finds no merit in the said objection.

33. The petitioner has rightly pointed out that a significant part of the cause of action has arisen within the territorial jurisdiction of this Court. The petitioner was detained within the NCT of Delhi, his statement was recorded in Delhi, and the summons dated 31.05.2025 is also issued and served upon

him at Delhi. Furthermore, Respondent No. 1's Head Office is located in New Delhi, where the concerned officers of the Directorate of Revenue Intelligence are conducting the investigation, as is evident from the summons dated 31.05.2025. Summons dated 31.05.2025 is reproduced as under –

> *"**SUMMONS***
> ***[under Section 108 of the Customs Act, 1962(52 of 1902)]***
>
> *To*
>
> ***Sh Sandeep Kumar Dhanuka***
> ***11/C, Windsor Mansion, 29, Chatham***
> ***Road, T.S.T., Kowloon, Hong Kong***
>
> *WHEREAS, I, Kuldeep Singh am making inquiry in connection with import of coal under the Customs Act, 1962.*
>
> *AND WHEREAS, I consider your attendance to*
> *(a) Give evidence and / or*
> *(b) Produce documents or things of the following description in your possession or under your control:*
> *1.To tender statment*
> *2.N/A*
> *3. N/A*
>
> *NOW, THEREFORE, in exericse of powers vested in me under Section 108 of the Customs Act, 1962, I do hereby summon you to appear before me in person / or by any authorized agent on **2025-05-31** at **12:40:PM** at the office of **DRI Headquarters, 7th Floor, IP Bhawan, IP Estate, New Delhi-110002**.*
>
> *Inquiry as aforesaid is deemed to be a judicial proceeding within the meaning of section 229 and section 267 of Bharatiya Nyaya Sanhita, 2023 (45 of 2023) and non-complaince of this summon is an offence punishable under section 208 and section 210 of Bharatiya Nyaya Sanhita, 2023 (45 of 2023).*
>
> *Given under my hand and seal of office to-day the **31** day of **May, 2025** at **New Delhi**.*
>
> *Name: **Kuldeep Singh***
> *Signature : sd/-*
> *31/05/2025"*

34. Reliance may also be placed on the judgment of this Court in ***Jayaswals Neco Limited v. Union of India*, 2007 SCC OnLine Del 2094,** wherein it was categorically held that–

43. *Thus, it is clear that Article 226 (2) is in addition to Article 226 (1), implying thereby that the High Court within whose territorial limits the person, authority or government is located would have jurisdiction to entertain a writ petition directed against any of them irrespective of the fact as to where cause of action arose, provided that there was a cause of action for filing a writ petition. Additionally, High Courts within whose limits the person, authority or government to whom the writ is to be issued, is not located can also issue writs to such person, authority or government provided the cause of action, in whole or in part, arose within their territories.*

xxx xxx xxx

48. *On the basis of the above discussion, it can be safely said that Kusum Ingots (supra), was definitive with regard to the following:—*

(1) Passing of a legislation by itself does not confer any right to file a writ petition unless a cause of action arises therefor. [See : Kusum Ingots (supra) : para 19].

(2) Situs of office of Parliament, legislature of a State or authorities empowered to make subordinate legislation would not by itself constitute any cause of action. [See Kusum Ingots (supra) : para 26].

(3) The High Court within whose jurisdiction a legislation is passed, would not have the sole territorial jurisdiction but all the High Courts where cause of action arises, will have jurisdiction. [See : Mosaraf Hossain Khan (supra) : para 26].

(4) The question as to whether the court has a territorial jurisdiction to entertain a writ petition, must be arrived at on the basis of averments made in the petition, the truth or otherwise thereof being immaterial. [See : Kusum Ingots (supra) : para 12 with reference to ONGC v. Utpal Kumar Basu, (1994) 4 SCC 711].

(5) When a part of the cause of action arises within one or the other High Court, it will be for the petitioner to choose his forum. [See : Kusum Ingots (supra) : para 25].

(6) In appropriate cases, the court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens. [See : Kusum Ingots (supra) : para 30].

xxx xxx xxx

54. *It must also be kept in mind that the doctrine of forum non conveniens is essentially a common law doctrine originating from admiralty cases have trans-national implications. It is clear that the doctrine of forum non conveniens is only available when a Court has the jurisdiction but the respondent is able to establish the existence of an adequate alternative forum. In this context, the doctrine of forum non*

> *conveniens would be appropriate only when an adequate alternative forum is available but again this doctrine is a common law doctrine which cannot override statutory or constitutional provisions.*

35. In view of the foregoing, the plea of lack of jurisdiction raised by the respondent is found to be untenable. It would be inapposite to apply/invoke the doctrine of *forum conveniens* in the present case, to override a constitutionally conferred jurisdiction, particularly when nexus exists between the cause of action and the jurisdiction of this Court.

36. On merits, it is noticed that there is no subsisting Show Cause Notice pending against the petitioner. The proceedings initiated pursuant to SCN bearing F. No. DRI/MZU/F/INT/154/2014/6666 dated 31.08.2016 were dropped by the Order in Original dated 29.11.2023.

37. The said Order in Original was challenged by respondent no. 1 before the CESTAT Mumbai in Customs Appeal No. 85681 of 2024. By order dated 25.03.2025 (Appellate Order–1), the CESTAT Mumbai upheld the findings of the Adjudicating Authority (the petitioner, however, was not a party to these proceedings).

38. Thereafter, respondent no. 1 preferred separate appeal, Customs Appeal No. 85683 of 2024, assailing the same Order in Original wherein the petitioner was made party. The CESTAT Mumbai, by its subsequent order dated 22.09.2025 (Appellate Order–2), once again upheld the Order in Original further held that proceedings qua the petitioner were without jurisdiction.

39. The evolution of the guidelines governing the issuance of LOCs has been noted by this Court in ***Puja Chadha v. Directorate Of Enforcement***, 2025:DHC:8787. The relevant portion of the judgment is reproduced as

under –

> *"39. Before examining the factual conspectus of the present case, it would be appropriate to trace the evolution of the guidelines governing the issuance of LOCs.*
>
> *40. The first set of instructions in this regard emanated from a Ministry of Home Affairs letter dated 5 September 1979 (Letter No. 25022/13/78-FI). This communication authorized various agencies, including the Ministry of External Affairs, the Customs Department, the Income Tax Department, the Directorate of Revenue Intelligence (DRI), the Central Bureau of Investigation (CBI), Interpol, Regional Passport Officers, and State Police authorities, to monitor the arrival and departure of both Indian citizens and foreigners.*
>
> *41. Thereafter, a more structured framework was introduced through the Office Memorandum dated 27 December 2000, which specifically dealt with Indian citizens.*
>
> *42. Subsequently, judicial intervention in Vikram Sharma v. Union of India, 2010 SCC OnLine Delhi 2475 and Sumer Singh Salkan v. Asst. Director, 2010 SCC OnLine Delhi 2699 brought further clarity to the regime. These pronouncements prompted the Ministry of Home Affairs to issue a comprehensive Office Memorandum dated 27 October 2010, which laid down detailed guidelines for issuance of LOCs against both Indian citizens and foreigners. Paragraph 8(g) and (h) of the said OM are relevant and are set out below:—*
>
> > *"8. In accordance with the order dated 26.7.2010 of the High Court of Delhi, the matter has been discussed with the concerned agencies and the following guidelines are hereby laid down regarding issuance of LOCs in respect of Indian citizens and foreigners:*
> >
> > *xxx xxx xxx*
> >
> > *g) Recourse to LOC is to be taken in cognizable offences under IPC or other penal laws. The details in column IV in the enclosed proforma regarding 'reason for opening LOC' must invariably be provided without which the subject of an LOC will not be arrested/detained.*
> >
> > *h) In cases where there is no cognizable offence under IPC or other penal laws, the LOC subject cannot be detained/arrested or prevented from leaving the country. The originating agency can only request that they be*

informed about the arrival/departure of the subject in such cases."

43. The 2010 framework circumscribed the use of LOCs to cases involving cognizable offences under the Indian Penal Code or other penal statutes. In non-cognizable matters, the issuing agency could merely request intimation of the individual's travel movements, but not seek detention or arrest.

44. This regime was thereafter expanded through subsequent amendments. A major shift occurred with the amendment dated 5 December 2017, by the addition of the following clause:

"Office memorandum

Sub : Amendments in circular dated October 27, 2010 for issuance of look-out circular in respect of Indian citizens and foreigners— regarding.

In continuation to this Ministry Office Memorandum No. 25016/31/2010-Imm dated October 27, 2010 and as approved by the competent authority, the following amendment is hereby issued:

Amendment

Read as:

In exceptional cases, look-out circulars can be issued even in such cases, as would not be covered by the guidelines above, whereby departure of a person from India may be declined at the request of any of the authorities mentioned in clause (b) of the above-referred Office Memorandum, if it appears to such authority based on inputs received that the departure of such person is detrimental to the sovereignty or security or integrity of India or that the same is detrimental to the bilateral relations with any country or to the strategic and/or economic interest of India or if such person is allowed to leave, he may potentially indulge in an act of terrorism or offences against the State and/or that such departure ought not to be permitted in the larger public interest at any given point in time.

Instead of:

In exceptional cases, look-out circulars can be issued without complete parameters and/or case details against counterintelligence suspects, terrorists, anti-national elements, etc., in the larger national interest.

45. As per the Office Memorandum of December 5, 2017, "detrimental to the economic interests of India" was added as a ground for issuance of LOC.

*46. Further modifications were introduced by amendments dated 19 September 2018 and 12 October 2018**. Eventually, to consolidate the entire regime, the Ministry of Home Affairs issued a comprehensive Office Memorandum on 22 February 2021, which currently governs the field. Relevant clauses of the 2021 Memorandum are reproduced as under –***

"6. The existing guidelines with regard to issuance of Look Out Circulars (LOC) in respect of Indian citizens and foreigners have been reviewed by this Ministry. After due deliberations in consultation with various stakeholders and in suppression of all the existing guidelines issued vide this Ministry's letters/ O.M. referred to in para 1 above, it has been decided with the approval of the competent authority that the following consolidated guidelines shall be followed henceforth by all concerned for the purpose of issuance of Look Out Circulars (LOC) in respect of Indian citizens and foreigners:-

xxx *xxx* *xxx*

(H) Recourse to LOC is to be taken in cognizable offences under IPC or other penal laws. The details in column IV in the enclosed proforma regarding 'reason for opening LOC' must invariably be provided without which the subject of an LOC will not be arrested/detained.

(I) In cases where there is no cognizable offence under IPC or other penal laws, the LOC subject cannot be detained/arrested or prevented from leaving the country. The originating agency can only request that they be informed about the arrival/departure of the subject in such cases

xxx *xxx* *xxx*

(L) In exceptional cases, LOCs can be issued even in such cases, as may not be covered by the guidelines above, whereby departure of a person from India may be declined

> ***at the request of any of the authorities mentioned in clause (B) above, if it appears to such authority based on inputs received that the departure of such person is detrimental to the sovereignty or security or integrity of India or that the same is detrimental to the bilateral relations with any country or to the strategic and/or economic interests of India or if such person is allowed to leave, he may potentially indulge in an act of terrorism or offences against the State and/or that such departure ought not be permitted in the larger public interest at any given point in time****."*
>
> *47.* ***Clauses 8(g), 8(h), and 8(j) of the Office Memorandum dated 27.10.2010 now find their corresponding place in Clauses 6(H), 6(I), and 6(L), respectively, of the consolidated Office Memorandum dated 22.02.2021****."*

40. The aforementioned Office Memorandums have been examined and interpreted in several other judicial pronouncements as well.

41. In ***Prashant Bothra & Anr. v. Bureau of Immigration & Ors***., 2023 SCC OnLine Cal 2643, it was held as under:

> *"39. In the present case, as rightly pointed by learned counsel for the petitioners, the stage of investigation within the contemplation of Section 212(1) - (4) of the 2013 Act is not yet over. Thus, as of today, whatever may the allegations against the petitioners or the Company of which they were Directors and guarantors, the same cannot tantamount to a cognizable offence against the petitioners.*
>
> *xxx* *xxx* *xxx*
>
> *47. The said citation by the SFIO is not relevant in the present case. In the present case, no "trial" has started and/or any arrest has been made or sought to be made. There is no issuance of NBW at all in the present case or even warrant, for that matter. Clause 4(a) of the Office Memorandum, quoting the Delhi High Court, clearly envisages that there has to be a cognizable offence where the accused was deliberately evading arrest or not appearing in a Trial Court despite NBW and other coercive measures and there was likelihood of the accused leaving the country to evade trial/arrest. None of the said criteria are met in the present case. On the contrary, Clause 6 of the Office Memorandum dated February 22, 2021 provides that the existing guidelines with regard to issuance of LOC were being superseded and it was decided as provided thereafter. The said consolidated guidelines, thus, are spelt out in Clause 6."*

42. In ***Sumer Singh Salkan vs. Asst. Director*** (supra), the Court has observed as under –

> *"The questions raised in the reference are as under:*
>
> *"A. What are the categories of cases in which the investigating agency can seek recourse of Look-out-Circular and under what circumstances?*
>
> *B. What procedure is required to be followed by the investigating agency opening a Look-out-circular?*
>
> *C. What is the remedy available to the person against whom such Lookout-Circular has been opened?*
>
> *D. What is the role of the concerned Court when such a case is brought it and under what circumstances, the subordinate courts can intervene?*
>
> *The questions are answered as under:*
>
> *A. Recourse to LOC can be taken by investigating agency in cognizable offences under IPC or other penal laws, where the accused was deliberately evading arrest or not appearing in the trial court despite NBWs and other coercive measures and there was likelihood of the accused leaving the country to evade trial/arrest.*
>
> *B. The Investigating Officer shall make a written request for LOC to the officer as notified by the circular of Ministry of Home Affairs, giving details & reasons for seeking LOC. The competent officer alone shall give directions for opening LOC by passing an order in this respect.*
>
> *C. The person against whom LOC is issued must join investigation by appearing I.O. or should surrender the court concerned or should satisfy the court that LOC was wrongly issued against him. He may also approach the officer who ordered issuance of LOC & explain that LOC was wrongly issued against him. LOC can be withdrawn by the authority that issued and can also be rescinded by the trial court where case is pending or having jurisdiction over concerned police station on an application by the person concerned.*
>
> *D. LOC is a coercive measure to make a person surrender to the investigating agency or Court of law. The subordinate courts' jurisdiction in affirming or cancelling LOC is commensurate with the jurisdiction of cancellation of NBWs or affirming NBWs."*

43. In ***Brij Bhushan Kathuria v. Union of India and Others***, 2021 SCC OnLine Del 2587, this Court has made the following observation –

"14……An LOC has the effect of seriously jeopardising the right to travel of an individual. The settled legal position, as per the judgment in Sumer Singh Salkan (supra) is that unless and until there is an FIR which is lodged or a criminal case which is pending, an LOC cannot be issued.

xxx *xxx* *xxx*

18. It is clear from a perusal of clauses (g), (h) and (j) that unless and until the conditions in these clauses are satisfied, prima-facie an LOC cannot be opened.

19. There is no criminal case pending against the Petitioner. His role is also yet to be ascertained by the investigating authorities. Phrases such as 'economic interest' or 'larger public interest' cannot be expanded in a manner so as to include an Independent Director who was in the past associated with the company being investigated, without any specific role being attributed to him, as in the present case.…..…"

44. Similarly in ***Ashutosh Sharma V. Union Of India & Anr***., W.P. (C) 7769 of 2022, the Court has observed as under -

"6. It is also to be noted that there are no complaint/criminal proceedings pending against the Petitioner.

7. Since 30th November 2019, the Impugned LOC against the Petitioner has been in place. The rationale behind issuing the instant LOC is to effectively monitor the entry or exit of the Petitioner from the country.

8. However, there is no material placed before the Court which can ascertain the Petitioner's liability or criminal culpability at this juncture which could indicate that he is intending to abscond. Therefore, the mere apprehension of default cannot be a basis for opening an indefinite LOC against him, thereby restricting the movement of a citizen who has a right to travel abroad which is acknowledged to be a fundamental right under Article 21 of the Constitution of India, 1950, as observed in the landmark judgments of Maneka Gandhi v. Union of India and Satwant Singh Sawhney v. D. Ramarathnam, Assistant Passport Officer and Ors.

xxx

12. The above makes it clear that only in exceptional cases can a LOC be issued without fulfilling the parameters. This is because a person's right to travel freely is an expression of their fundamental right to personal liberty enshrined under Article 21 of the Constitution. Therefore, such a right can only be restricted under strict parameters and in accordance with the procedure established by law."

45. Reference is also apposite to ***Hulas Rahul Gupta v. Bureau of Immigration and Others*** (supra), wherein the Court has observed as under –

> *18. The abovementioned guidelines show that the ordinary recourse to open LOCs is to be taken in cognizable offence under IPC and other penal laws. However, in exceptional circumstances, LOCs can be opened in such cases which are not covered by the guidelines if it is felt that the person concerned if leaves the country would be against the economic interest of the country.*
>
> *19. It is now a settled law that opening of an LOC has a very serious effect on a person's fundamental right to travel abroad which is on the face of Article 21 of the Constitution of India and the said right to travel cannot be curtailed without following due process. It is also settled law that recourse to LOC can be taken by the Investigating Agencies primarily when there is a cognizable offence under IPC or in any other penal laws or where the accused is deliberately evading the arrest and not appearing before Court despite summons being served on him or issuance of non-bailable warrants or when other coercive measures have been taken by the Court to ensure his appearance in the Court and that there is likelihood of the accused to leave the country to evade such trial or arrest.*
>
> *20. The LOCs are also being issued at the instance of Investigating Agencies where apprehension is raised by the Investigating Agencies that the person who is alleged of committing an offence might escape the clutches of law by leaving the country. However, the law is also getting crystallized that merely because there are some revenue implications, the LOC cannot be opened against a person. A Single Bench of this Court in Priya Parameswaran Pillai v. Union of India, [2015 VII AD (Delhi) 10] has held that merely because there were some revenue implications due to notices issued by the Income Tax Authorities, the violations of tax laws are not demonstrative of the fact that the Petitioner therein had acted inimical to the economic interests of the country.*

46. In the present case, the conditions mentioned in clauses (H), (I) and (L) are, evidently, not satisfied. There is no cognizable offence pending against the petitioner. The proceedings arising out of the 2016 SCN have been conclusively dropped. The Order in Original in favour of the Petitioner has been upheld twice by the CESTAT. Though it is submitted that respondent no. 1 has filed a further appeal before the Supreme Court via

Diary No. 47827/2025, it is undisputed that no stay has been granted on the operation of the Order in Original.

47. Although Clause (L) of the 2021 Memorandum carves out an exception permitting issuance of an LOC, inter alia, on grounds relating to the "economic interests of India" and "larger public interest", it has been held that such an exception cannot be invoked loosely.

48. It has been held by this Court in ***Prateek Chitkara v. Union of India***, 2023 SCC OnLine Del 6104, as under–

> *"82. The term "detrimental to economic interest" used in the Office Memorandum is not defined. Some cases may require the issuance of a look-out circular, if it is found that the conduct of the individuals concerned affects public interest as a whole or has an adverse impact on the economy. Squandering of public money, siphoning off amounts taken as loans from banks, defrauding depositors, indulging in hawala transactions may have a greater impact as a whole which may justify the issuance of look-out circulars. However, issuance of look-out circulars cannot be resorted to in each and every case of bank loan defaults or credit facilities availed of for business, etc. Citizens ought not to be harassed and deprived of their liberty to travel, merely due to their participation in a business, whether in a professional or a non-executive capacity. The circumstances have to reveal a higher gravity and a larger impact on the country.*
>
> *xxx xxx xxx*
>
> *106. This court is of the opinion that this is not a case that would be detrimental to the economic interest of the country as there is no allegation that the petitioner has siphoned off any public funds. 107. In addition, the overwhelming fact that no criminal proceedings have been initiated against the petitioner, despite the demand having already been raised against him is an important consideration."*

49. It is also relevant to note the following observations of the Court in ***Hulas Rahul Gupta v. Bureau of Immigration and Others*** (supra),–

> *"22. A perusal of the aforesaid judgments also indicates that merely stating that a person's travel would become detrimental to the economic interests of the country on the ground of misappropriation of money cannot be a reason to open an LOC curtailing a person's right to travel."*

50. Even otherwise, the facts reveal that the initial LOC was opened between 2015 and 2018, and after nearly seven years, another LOC has been issued in relation to the very same transactions that occurred between 2010 and 2015. This unexplained gap and the belated action raises serious questions as to its necessity and proportionality. The State cannot indefinitely restrain the petitioner's liberty to travel to his country of citizenship despite the long concluded proceedings.

51. This Court also notes the petitioner's contention that it has given utmost cooperation to respondent no. 1. The petitioner has appeared before the authorities whenever summoned and has even engaged a law firm in Hong Kong to retrieve the bank records sought by the DRI. However, the concerned banks, vide letters dated 7 July 2025 and 10 July 2025, have clarified that they do not retain records older than seven years, in compliance with Section 51C of the Hong Kong Inland Revenue Ordinance.

52. With regard to the contention of the respondent that the petitioner had violated the Look Out Circular (LOC) issued in 2015 and had evaded the summons issued at that time, there is nothing on record to suggest that the petitioner was informed or made aware of the fact that any LOC had been issued against him. Moreover, the first LOC dated 06.11.2015 was issued in relation to the petitioner's Indian passport, which had already been renounced on 09.04.2013 upon his relinquishment of Indian citizenship.

53. This Court also takes note of the submission of Mr. Siddharth Luthra, Senior Advocate appearing for the petitioner that the petitioner has deep and continuing roots in the community. It has been stated that the petitioner has travelled to India twenty-two times in the past four years. His immediate family, including his mother and brother, permanently reside in India. It is

emphasized that there is no reasonable apprehension that the petitioner would abscond or evade the jurisdiction of Indian authorities.

54. Importantly, the petitioner has volunteered to give an undertaking on affidavit, affirming that he shall:

(i) continue to cooperate in the investigation and appear before the investigating authority, as and when required or directed, and render full cooperation in any ongoing proceeding/s and investigation/s; and

(ii) provide all material/documents requested from him by the investigating agencies, and as may be available within his power or possession.

55. The above undertaking is on the lines of ***Puja Chadha*** (supra).

56. In the circumstances, subject to the petitioner filing the aforesaid undertaking on affidavit (with advance copy to the learned counsel for the respondents), the impugned LOC against the petitioner is quashed.

57. It is made clear that since the LOC has been quashed on the strength of the aforesaid undertaking, any breach thereof by the petitioner, shall be treated as egregious and wilful disregard of orders passed by this Court entailing action under the Contempt of Courts Act, 1971, besides other consequences under law.

58. The petition is disposed of in the above terms. Pending application also stands disposed of.

NOVEMBER 3, 2025/*sv* **SACHIN DATTA, J**