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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 17th March, 2025

+ **W.P.(C) 8263/2024 & CM APPL. 33990/2024**

GURJIT SINGH BAINSPetitioner
Through: Mr. Pradeep Jain, Mr. Sambhav Jain
and Mr. Pranav Raj Singh,
Advocates.

versus

ADDL COMMISSIONER OF CUSTOMS IMPORT & ORS.
.....Respondents
Through: Mr. Subham Kumar and Mr. Dipak
Raj, Advocates for Mr. Anurag Ojha,
Sr. Standing Counsel for R-1.
Ms. Anushkaa Arora, Senior Panel
Counsel for UOI with Mr. Taranpreet
Singh, Advocate for R-3.

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+ **W.P.(C) 8301/2024 & CM APPL. 34056/2024**

SANDEEP ARORAPetitioner
Through: Mr. Pradeep Jain, Mr. Sambhav Jain
and Mr. Pranav Raj Singh,
Advocates.

versus

ADDL COMMISSIONER OF CUSTOMS IMPORTS INLAND
CONTAINER DEPOT TUGHLAKABAD NEW DELHI & ORS.
.....Respondents
Through: Mr. Subham Kumar and Mr. Dipak
Raj, Advocates for Mr. Anurag Ojha,
Sr. Standing Counsel for R-1.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J.(ORAL)

1. This hearing has been done through hybrid mode.



2. These two petitions *i.e.* **W.P.(C) 8263/2024 & W.P.(C) 8301/2024** have been filed by the Petitioners *i.e.* Gurjit Singh Bains and Sandeep Arora respectively, under Article 226 & 227 of the Constitution of India challenging the impugned show cause notice bearing F. no. DRI/MZU/F/ENQ(INT)100/2014/10175 dated 30th December, 2014 and the Order-in-Original bearing no. 74/2024/KP/ADDL.COMMR/IMP/ICDTKD dated 30th March, 2024 passed consequent to the said show cause notice.

3. The brief background is that a Directorate of Revenue Intelligence (hereinafter '*DRI*') investigation was initiated against one M/s. Seiger International, New Delhi for evasion of Customs Duty for the period between May 2011 to October 2012. The allegation was that the Proprietor of the said firm Ms. Kulpreet Kaur along with Mr. Sandeep Arora, Managing Director of M/s Glo Trans Logistics Pvt. Ltd. New Delhi in collusion with one Mr. Gurjit Singh Bains submitted duplicate lower value invoices for clearance of the imported goods. The said individuals *i.e.*, Ms. Kulpreet Kaur and Mr. Sandeep Arora, had been summoned for tendering evidence, both documentary and oral. During the evidence, various documents were submitted and statements were also recorded.

4. The original invoices were given by Mr. Gurjit Singh Bains for the furniture and lighting fixtures, which were also filed. The statements of Ms. Kulpreet Kaur and Mr. Sandeep Arora were recorded on 19th August 2014 and 21st August 2014 respectively. Mr. Gurjit Singh Bains, who is a resident of Italy, refused to appear before the DRI, despite summons being issued for his presence.

5. The show cause notice was then issued on the basis of the statements which were recorded and the documentary evidences filed. In terms of the



show cause, the noticees were directed to file their reply as to why action ought not to have been taken against them.

6. The main firm *i.e.*, M/s Seiger International through the Proprietor *i.e.* Ms. Kulpreet Kaur approached the Settlement Commission, Principal Bench under Section 127B of the Customs Act, 1962. The Settlement Commission heard the parties and after considering the entire matter, passed an order dated 13th April 2016 wherein the commission settled the amounts payable by Ms. Kulpreet Kaur. The relevant portion of the said order is set out below:-

“14. The Bench has carefully considered the material available on record and submissions made by both the sides at the time of hearing.

The facts of the case and the narration given in the SCN are undisputed. Based on the intelligence and subsequent investigation, it was revealed that applicant had grossly undervalued the imported good and had hatched wellplanned conspiracy to evade payment of appropriate Custom Duty. The undervaluation on the part of the applicant has been admitted and they have paid the entire differential duty demanded in the Show Cause Notice along with interest. The applicant had direct role in the evasion of Custom Duty and are liable to be penalized under the provisions invoked in the Show Cause Notice. However, the Bench observes that applicant has co-operated in the Settlement Proceedings and have made full and true disclosures of their liability and paid the same. In view of the above, and considering the facts and circumstances of the case, the Bench finally settles the case under Section 127C (5) of the Act on the following terms and conditions:

Custom Duty: *The differential Customs Duty in this case is settled at Rs 73,24,617/- (Seventy three lakhs twenty four thousand six hundred seventeen rupees only) . An equivalent amount already deposited by the applicant is ordered to be appropriated towards settled amount of duty. Nothing*



further remains to be paid on this count.

Interest: *The total interest amount in this case is settled at Rs 33,48,526/- (Thirty three lakhs forty eight thousand five hundred twenty six only). This amount has been paid by the applicant. The Revenue is given liberty to re-calculate the interest on the settled duty amount within 15 days of the receipt of this order and inform the same to the applicant who shall pay the such amount within 15 days from the date of receipt of such intimation from Revenue under intimation to Revenue*

Penalty: *In the facts and circumstances of the case, Bench imposes a penalty of Rs 1,50,000/- (One Lakh fifty thousand only)/- on the applicant under the provisions invoked in the SCN and grants them immunity from penalty in excess of the said amount.*

Fine: *As goods are not available for confiscation, the Bench refrains from imposing any redemption fine.*

Prosecution: *Subject to the payment of the aforesaid amounts, the Bench grants immunity to the applicant from prosecution under the Act and Rules made there-under in so far as this case is concerned.*

.....

17. The case is settled in respect of the applicant mentioned above and the Revenue is free to take action against the notices in the SCN as deemed fit.

7. As can be seen from the above order, immunity was granted to Ms. Kulpreet Kaur, subject to the payments being made. The Customs Department was, however, free to take action against other noticees, who had received the show cause notice.

8. Thereafter, according to the Petitioners, no notice was given for



further proceedings as per the show cause notice dated 30th December 2014. Also, no reply was filed on behalf of the Petitioners and the Petitioners had not been given any personal hearing. On 30th March, 2024, the final impugned order was passed. In the impugned order, it is recorded that repeated hearing notices were given, however, none appeared. This position is disputed by the Petitioners.

9. Mr. Pradeep Jain, Id. Counsel appearing on behalf of the Petitioners raises a challenge to the Order-in-Original on two grounds; (i) that the adjudication is extremely belated *i.e.*, after almost a period of ten years; and (ii) the main firm *i.e.* M/s Seiger International, having approached the Settlement Commission and the entire duty along with interest having been paid, the other notices *i.e.*, Mr. Sandeep Arora, Managing Director of M/s Glo-Trans Logistics Pvt. Ltd., the Handing Agent and the Italian Firms (M/s BGB Italia & M/s ABH Servizi), who were the foreign supplier, cannot now be proceeded against.

10. A counter affidavit has been placed on record on behalf of the Respondent No.1-Additional Commissioner of Customs (Imports) Inland Contained Depot, Tughlakabad, New Delhi. In the counter affidavit, the stand of the Respondent is that the matter was placed in the call book from time to time but due to constant changes in the legal position, the same could not be adjudicated. The Respondent states that the case was transferred in the call book on 29th March, 2018 and accordingly, the noticees were duly informed on 26th March, 2021. Again, it is stated that on 31st March, 2022, there was re-assignment of roles of various officers and in view thereof, there may have been a delay in adjudication.

11. Ld. Counsel for the Respondent submits that now that the Order-in-



Original has been passed, the Petitioners may be relegated to redeem their appellate remedy.

12. The Court has heard the Id. Counsels and considered the matters. The present case deserves to be allowed in favour of the Petitioners on three grounds :

- i) That the putting of the notice in the call book is no longer sufficient ground to delay the adjudication of the show cause notice.
- ii) There was no stay in this matter by any Court of law, hence, the show cause notice ought to have been proceeded with.
- iii) The Customs Department was well-aware of the order passed by the Settlement Commission, as well.

13. This case would be clearly covered by the previous decisions of this Court in *M/s Vos Technologies India Pvt. Ltd. v. The Principle Additional Director General &Anr., 2024 SCC OnLine Del 8756* as also in *Vijay Enterprises & Anr. v. The Principal Commissioner of Customs &Anr. In W.P.(C) 5809/2024 and W.P.(C) 15463/2023*. The Court therein had observed as under :

M/s Vos Technologies India Pvt. Ltd. v. The Principle Additional Director General &Anr., 2024 SCC OnLine Del 8756

“85. The position which thus emerges from the aforesaid discussion and a review of the legal precedents is that the respondents are bound and obliged in law to endeavour to conclude adjudication with due expedition. Matters which have the potential of casting financial liabilities or penal consequences cannot be kept pending for years and decades together. A statute enabling an authority to conclude proceedings within a stipulated



period of time “where it is possible to do so” cannot be countenanced as a license to keep matters unresolved for years. The flexibility which the statute confers is not liable to be construed as sanctioning lethargy or indolence. Ultimately it is incumbent upon the authority to establish that it was genuinely hindered and impeded in resolving the dispute with reasonable speed and dispatch. A statutory authority when faced with such a challenge would be obligated to prove that it was either impracticable to proceed or it was constricted by factors beyond its control which prevented it from moving with reasonable expedition. This principle would apply equally to cases falling either under the Customs Act, the 1994 Act or the CGST Act.”

Vijay Enterprises &Anr. v. The Principal Commissioner of Customs &Anr. In W.P.(C) 5809/2024 and W.P.(C) 15463/2023.

“23. A perusal of the above would show that the impugned SCN, which was issued way back in 2008, due to repeated placing in the call book has not been adjudicated for so long. Repeated placing and removing from the call book is not a valid justification for non-adjudication of the impugned SCN for about 15 years. Moreover, the gaps between the said periods is also inexplicable. Hearing notices have been given to the Petitioners but there is no reason for non-adjudication of the impugned SCN for long period...”

14. In terms of the settled legal position, the Order-in-Original dated 30th March, 2024 was passed pursuant to the show cause notice dated 30th December, 2014, which is almost a ten year old notice. In the opinion of this



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Court, the same cannot be sustained. Accordingly the said Order-in-Original dated 30th March, 2024 is set aside and the proceedings against the Petitioners shall stand quashed.

15. The petitions are disposed of. Pending application(s), if any, also stand disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MARCH 17, 2025/nd/ck