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

*Date of decision: 06<sup>th</sup> May, 2025*

+ **W.P.(C) 13407/2024**

SANS FRONTIERS THROUGH ITS  
PARTNER SH. AKHILESH CHANDRA

.....Petitioner

Through:

versus

ASSISTANT COMMISSIONER OF CUSTOMS,  
DRAWBACK

.....Respondent

Through: Mr Aakarsh Srivastava, Senior  
Standing Counsel, Adv Anand  
Pandey, Adv Anugya Gupta

**CORAM:**  
**JUSTICE PRATHIBA M. SINGH**  
**JUSTICE RAJNEESH KUMAR GUPTA**

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

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner-M/s. Sans Frontiers under Article 226 of the Constitution of India, *inter alia*, seeking revocation of the alert dated 13th February 2020 and the release of the pending duty drawbacks.
3. The Petitioner is a firm engaged in the business of exports primarily in imitation jewellery, handicrafts, etc. for nearly 30 years. The Petitioner was operating as an Export Oriented Unit (hereinafter, 'EOU') until 7th May 2014. After completion of the exit formalities from the EOU Scheme as per Foreign Trade Policy/Handbook of Procedures, the Assistant Development



Commissioner issued the Petitioner with a Final De-Bonding Order on 14th May 2025.

4. The case of the Petitioner is that he had been receiving the duty drawback against eligible exports until June 2020, however, thereafter, the Respondent stopped the drawback against Petitioner's eligible exports. The duty drawbacks and other incentives were again withheld on 16th June 2020 with the message '*DBK AC has suspended the SB*'. On 28th July 2022, the Petitioner filed a grievance through Centralized Public Grievance Redress and Monitoring System (hereinafter, '*CPGRAMS*') portal *vide* reference no. CBOEC/E/2022/05000 enquiring into the reason for the inordinate delay of the release of pending duty drawback to the tune of Rs. 9,13,596/-.

5. Thereafter, it is stated that on 29th August 2022, the Petitioner was informed that an alert was raised on the Import Export Code of the Petitioner on 13th February 2020 which resulted in withholding of duty drawbacks. The withholding of duty drawbacks was justified by the Department on the ground of the alert having been placed. The same was, however, removed thereafter by the Customs Department.

6. The Petitioner then challenged the same and the non-release of duty drawbacks before the Commissioner of Customs in *Appeal No. C/52631/2018-CUS [SM]*. The Commissioner of Customs disposed of the said appeal stating that an alert has been placed again on the Import Export Code of the Petitioner owing to an appeal, *i.e. CUSAA No. 01 of 2022* titled '*Commissioner of Customs, Air Cargo Export v. M/s Sans Frontiers*', filed before this Court against the Final Order No. A/53263/2018-SM(BR) dated 2nd November 2018 passed by Customs Excise and Service Tax Appellate Tribunal (hereinafter, '*CESTAT*'),



7. The said proceedings before CESTAT arose out of a Show Cause Notice dated 24th August 2015 and the stand of the Respondent in the said proceedings was that the duty drawbacks were inadmissible. The said Show Cause Notice had been issued after invoking the extended period of limitation and that led to the CESTAT setting aside the Show Cause Notice and passing the consequential order. The said order reads as under:-

*“1. The issue involved in this appeal is whether show cause notice dated 24th August, 2015 have been rightly issued invoking the extended period of limitation.*

*2. The admitted fact is that the appellant- assessee is 100% EOU and they availed duty drawback on the exports effected by them during 2006-07 to 2013-14. The appellant received objection from the Department vide letter dated 12th March, 2014, regarding the inadmissibility of the drawback availed. The appellant in response, deposited the duty drawback so availed and intimated the Revenue by their letter dated 31st March, 2014. The amount of deposit made Rs. 54, 80, 710/- also included interest component of Rs. 28, 64, 768/-.*

*3. Subsequently, show cause notice dated 24th August 2015 have been issued invoking extended period of limitation with proposal to confirm the same demand of duty drawback along with proposal to appropriate the amount already deposited.*

*4. Heard the parties.*

***5. Having considered rival contentions I find that under the facts and circumstances the extended period of limitation is not available to the Department, as the appellant had deposited on being so pointed out, along with interest, which is an admitted fact. Accordingly, the impugned order is set aside. The appellant is entitled to consequential benefits in accordance with law. Appeal stands allowed.”***



8. This order of CESTAT came to be challenged before this Court in *CUSSA 1/2022* titled ‘*Commissioner of Customs, Air Cargo Export v. M/s Sans Frontiers*’ and connected writ petition *i.e. W.P.(C) 7962/2021* titled *M/s Sans Frontiers v. Commissioner of Customs (Exports)* . The said two proceedings were decided finally on 12th December 2023 in which the Court has observed that the demand was made within a reasonable period when the Department came to know of the wrong availment of the said duty drawbacks. In respect of the belated issuance of the Show Cause Notice, the Court deemed it appropriate to refrain from adjudicating on the said issue. The Coordinate Bench in the peculiar facts had directed as under:

**“80. We do not consider it apposite to decide in the facts of the present case as to whether that the SCN dated 24.08.2015 was issued belatedly or not since the said issue had been decided in favour of the Revenue by the order passed by the Commissioner (Appeals), and has not been adjudicated upon by the revision authority having jurisdiction under Section 129DD of the Customs Act.**

*81. In the peculiar facts of this case where the Revenue originally had not taken any objection on the appeal being heard by the learned CESTAT, and had also, following the order of the learned CESTAT, sanctioned refund of the Drawback, the Firm should not be left remediless.*

*82. We, therefore, grant an opportunity to the Firm to prefer a revision, under Section 129DD of the Customs Act, against the order dated 14.05.2018 passed by the Commissioner (Appeals).*

*83. We direct that if such a revision is preferred within a period of two months, the same shall not be dismissed on the ground of limitation and be entertained on merits by the Central Government.*

*84. It is open for the Firm to raise all grounds, including*



*the issue as to whether the SCN dated 24.08.2015 was barred by limitation. Needless to state that if so raised, the same shall be considered by the Central Government, and a speaking order shall be passed after affording an opportunity of being heard to the Firm.*

*85. The writ petition is disposed of in the aforesaid terms.”*

9. The said judgement was challenged before the Supreme Court by the Petitioner in ***Civil Appeal No.12419/2024*** titled '***M/s. Sans Frontiers vs. Commissioner of Customs, Air Cargo, Export***' wherein a stay has been granted by the Court.

10. Ld. Counsel for the Petitioner has placed on record a copy of the application being ***I.A.107988/2024*** in ***Civil Appeal No.12419/2024***.

11. The prayer in the application was for stay of the impugned judgement dated 12th December 2023 and also the notice dated 6th July 2021 and Demand-cum-Show-Cause-Notice dated 15th July 2021. The order of the Supreme Court reads as under:-

*“1. Appeal admitted.*

***2. Stay as prayed for in I.A. No. 107988 of 2024 is granted pending disposal of the Civil Appeal.***

*3. Accordingly, IA No. 107988/2024 is disposed of”.*

12. In view of the fact that the judgment dated 12th December 2023 has been stayed, there can be no justification for holding back of duty drawbacks.

13. Let the duty drawbacks be now released to the Petitioner within a period of 30 days in accordance with law.

14. It is made clear that the release of the said duty drawbacks, however, will be subject to the outcome of the ***Civil Appeal No.12419/2024***.

15. The petition is disposed of in the above terms. Pending applications, if



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any, are also disposed of.

**PRATHIBA M. SINGH  
JUDGE**

**RAJNEESH KUMAR GUPTA  
JUDGE**

**MAY 6, 2025/'dc'/ck**