



\$~7

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 13th August, 2025

+ **W.P.(C) 13787/2022**

ANUJ JAIN

.....Petitioner

Through: Ms. Shikha Sapra, Ms. Reena Rawat
& Mr. Shivansh Sharma, Advs

versus

PRINCIPAL COMMISSIONER OF CUSTOMS
(IMPORT)

.....Respondent

Through: Ms. Anushree Narain, SSC and Mr.
Naman Choula, Adv (9625077466)

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner challenging the Order-in-Original dated 24th April, 2020 (*hereinafter, 'the impugned order'*) passed by the Office of the Principal Commissioner of Customs (Import), Tughlakabad, New Delhi.
3. The background of the case giving rise to the present petition is that there were two consignments which were imported in containers bearing no. TGHU 9546915 and OOLU 8433339. The first container was confiscated by the Customs Officials and it was revealed during inspection that there were cigarettes which were imported in the said container, but the declaration of the goods pertained to induction cookers.
4. The said container also was declared as induction cookers and was cleared through customs. The second container was cleared by the Customs officials and was subsequently located at a particular godown premises. Upon



a town seizure being made, the goods were absolutely confiscated and a demand of customs duty was raised on the Petitioner.

5. In respect of both these containers, statements of several persons, including that of the Petitioner, were recorded by the Directorate of Revenue Intelligence (*hereinafter*, 'DRI'). As per the statement of the Petitioner, it was revealed that the Petitioner had introduced the proprietor of M/s Nikhaar Associates, the importer, to the Customs handling agent and the documents relating to the said consignments were also handed over. The Petitioner was also one of the noticees in the Show Cause Notice dated 16th August, 2013 (*hereinafter*, 'SCN').

6. The Petitioner then filed a reply to the said SCN and then the Order-in-Original was passed on 24th April, 2020. In so far as it is relevant to the Petitioner, the extract of the order reads as under:-

*“A. Rs. 1000/- draft where the case against which the appeal relates and the amount of duty, interest demanded, and penalty levied is less than or equal to Rs. 5,00,000/-.
B. Rs. 5000/- draft where the case against which the appeal relates and the amount of duty, interest demanded, and penalty levied between to Rs. 5,00,000/- to Rs. 50,00,000/.”*

7. This order was sought to be challenged before Central Excise and Service Tax Appellate Tribunal (*hereinafter*, CESTAT) which had rejected the appeal on the ground that the requisite pre-deposit was not made.

8. Ms. Shikha Sapra, Id. Counsel appearing for the Petitioner submits that in so far as the penalty imposed on the Petitioner vide the impugned order is concerned, the requisite 7.5% has been deposited. However, the duty demanded for one of the containers is substantial and the Petitioner is unable



to deposit the said pre deposit. She thus raises a plea that in respect of the consignment which were seized at the port, the duty demand has been dropped, but in respect of which the consignment which was confiscated from the godown, a substantial duty demand of Rs 1,98,68,395.5/- has been raised.

9. Ld. Counsel for the Petitioner, therefore, prays that the Petitioner be permitted to pursue the appeal before the CESTAT by not making any pre deposit *qua* the duty as the two containers are placed at the same pedestal and differential treatment cannot be accorded to them.

10. Ms. Anushree Narain, ld. SSC on the other hand submits that in one of the containers, the goods were confiscated at the port itself. The second container had been cleared through customs and the seizure was a town seizure when the goods had themselves been cleared from the port. Thus, it cannot be said that the duty cannot be imposed on the said seizure.

11. The question that thus arises for consideration in this case is whether the duty demand in respect of the second container is valid or not . In the opinion of this Court, the said issue would have to be adjudicated by CESTAT on merits. However, due to the lack of pre-deposit, the appeal has not been heard.

12. As already recorded above, the Petitioner has already deposited a sum of Rs. 2,64,395/- towards pre deposit *qua* the penalties imposed on Mr. Anuj Jain. In respect of the first container, no duty has been demanded and in respect of the second container, full duty has been demanded. 7.5% of the value of the consignment of the duty demanded of Rs 19,86,8395.5/- would amount to Rs 14,90,129/-.

13. This Court, considering the overall facts, is of the opinion that the appeal of the Petitioner deserves to be heard on merits, especially, as some



pre- deposits have already been made.

14. Under these circumstances, the Petitioner is permitted to deposit 50% of the pre deposit i.e. 50% of Rs 14,90,129/- is Rs 7,45,646/-, in addition to the pre deposit already made. Let the said deposit be made within six weeks. Upon such deposit being made by the Petitioner, the CESTAT shall hear the appeal of the Petitioner on merits.

15. List before the CESTAT on 06th October, 2025.

16. All the rights and contentions of the parties are left open. The present petition is disposed of in said terms. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

**SHAIL JAIN
JUDGE**

AUGUST 13, 2025/sk/ss