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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 30th October, 2025
+ **W.P.(C) 15917/2025 & CM APPL. 65092/2025**

RAJ KUMAR GUPTA

.....Petitioner

Through: Mr. Rachit Lakhmani & Mr. Arya
Hardik, Advs. (8630100048)

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Bhagvan Swarup Shukla, CGSC
with Mr. Yash Baralia & Mr. Pradumn
Kumar Singh, Advs. for UoI
Mr. Satish Aggarwala, SSC.**CORAM:****JUSTICE PRATHIBA M. SINGH****JUSTICE SHAIL JAIN****Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.

CM APPL. 65093/2025

2. Allowed, subject to all just exceptions. The application is disposed of.

W.P.(C) 15917/2025 & CM APPL. 65092/2025

3. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, *inter alia*, challenging the impugned demand order dated 18th June, 2025, passed by the Directorate General of GST Intelligence, Mumbai (*hereinafter*, 'DGGI') (*hereinafter*, 'impugned order').

4. The present case relates to the clandestine manufacture and sale of *pan masala*, at various premises, which are held by the GST Department to be connected to the Petitioner. Raids and searches were conducted in 2016, at the factory premises and residence of the Petitioner, and various goods were seized along with cash of Rs.70,00,000/-.



5. The Petitioner was taken into custody on 18th September, 2016, and was thereafter released on bail. Following the same, a Show-Cause Notice was issued to the Petitioner on 7th March, 2017, issued by Additional Directorate General, Directorate General of Central Excise Intelligence, Delhi (*hereinafter*, '*SCN dated 7th March, 2017*') as to why the period of limitation for issuing show-cause should not be extended by a further period of six months. Thereafter, a reply was submitted to the SCN dated 7th March, 2017, by the Petitioner on 10th March, 2017.

6. Further, another Show Cause Notice dated 14th September, 2017 (*hereinafter*, '*SCN dated 14th September, 2017*') was issued to the Petitioner, whereby the Petitioner was asked to show cause as to why proceedings should not be initiated against the Petitioner, for the aforesaid seized cash. The Petitioner replied on 5th July, 2018, seeking to justify the cash which was seized.

7. Thereafter, a Show Cause Notice dated 8th June, 2020 was issued to the Petitioner (*hereinafter*, '*SCN dated 8th June, 2020*'), whereby the Petitioner was asked to show cause as to why he would not be liable to pay the excise duty in connection with the manufacturing and sale of *pan masala* at factory premises in Dabri area, near Sagarpur, Delhi (*hereinafter*, '*Dabri premises*').

8. The GST Department recorded statements of several witnesses. Two witnesses were examined by the Id. Counsel for the Petitioner. The statements were recorded between 2019 to 2020 and thereafter, the adjudication was transferred to Mumbai, in 2024.

9. Pursuant thereto, a personal hearing was granted to the Petitioner and the same was conducted in the Mumbai office, on 1st April, 2025. The Petitioner then sought permission to cross-examine a few more witnesses on 3rd April,



2025.

10. However, according to the petitioner, the impugned order has been passed without affording the petitioner an opportunity to cross-examine the witnesses. Aggrieved by the same, the petitioner has preferred the present writ petition.

11. Mr. Rachit, Id. Counsel for the Petitioner has vehemently argued before the Court that there has been a serious infraction of the principles of natural justice, as the petitioner was not afforded the opportunity to cross-examine the remaining witnesses. Consequently, he contends that the impugned order cannot be sustained. Further, Id. Counsel for the Petitioner has also taken the Court through the minutes of the proceedings conducted on 1st April, 2025 and application dated 3rd April, 2025, where the Petitioner had sought permission to cross-examine a few more witnesses.

12. On the other hand, Mr. Aggarwala, Id. SSC, submits that the impugned order which has been passed is an appealable order under Section 35B of the Central Excise Act, 1944, before the Customs, Excise and Service Tax Appellate Tribunal. Thus, he contends that the present writ petition is not liable to be entertained.

13. The Court has considered the submissions made on behalf of the parties and has also perused the impugned order.

14. A perusal of the impugned order would reveal that there were at least six premises, both commercial and residential, which were searched in 2016, and it was found that various brands of *pan masala* were being manufactured in an undeclared manner including at the unregistered premises in Dabri.

15. After searching the six premises simultaneously, DGGI had made a complete inventory of finished goods and raw materials. The said stock of



finished goods and raw materials is set out below:

“2.2 During search at the unregistered premises located at Plot No. 1/ A (105), A-Block, Dabri (East), New Delhi, eight vertical Pan Masala Pouch Packing Machines were found and seven of these were connected to power and loaded with laminates of various brands of Pan Masala and one machine was found in a dismantled condition. Following stock of finished goods and raw materials were also found at the said premises.

i) 3,57,000 pouches of 'MDM' brand Pan Masala/Gutkha.

ii) 2,25,000 pouches of 'RC' brand Pan Masala/Gutkha.

iii) 59,400 pouches of 'SNG (Sanjog) Zarda' brand Pan Masala/Gutkha.

iv) 26,760 pouches of 'SNG (Kesar ka Dum)' brand Pan Masala/Gutkha.

v) 875 Kg laminates of 'SNG Export Quality'.

vi) 450 Kg laminates of 'Hans Chap Tobacco'.

vii) 450 Kg laminates of 'Safari 2000'.

viii) 60 Kg 'Sanjog Zarda' brand Pan Masala/Gutkha laminates.

ix) 22 Kg 'MB 2000 Gutkha' brand Gutkha laminates.

x) 80 Kg Laxmi No-2 Supreme' brand Pan Masala/Gutkha laminates.

xi) 700 Kg laminates of 'Safari 2000'.

xii) 200 Kg laminates of 'RC (Royal Choice)' were found.

a. 150 Kg 'Royal Star Pan Masala for export classic' brand of Pan Masala/Gutkha laminates.

b. 1500 Kg 'Royal Pan Masala for export classic' laminates.

(xiv) Some loose Gunny Bags of 'Safari 2000', 'Sanjog Pan Masala' & 'Royal Star Classic (Export Quality) brands.

(xv) 7250 Kg of Pan Masala.

2.2.1 Samples of following Pan Masala/Gutkha/Zarda were drawn:-



- a) MOM;
- b) Royal Star Classic;
- c) SNG;
- d) Sanjog Zarda;
- e) RC (Royal Choice);
- f) Safari 2000;
- g) Sanjog Pan Masala;
- h) Premix of Pan Masala

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4.1 Simultaneous searches were conducted at the central excise registered premises of M/s Raj Products, 274, Industrial Area, Patparganj, Delhi-92 and certain incriminating documents were resumed. The following stock of finished goods and raw materials were also seized from the said registered premises on 17.09.2016:-



Sr. No.	Commodity/Machines	Number	Weight (in Kg.)	Total Quantity (Kg or Ltr.)	Rate per Unit	Value (Rs.)
1	Cardomam	10	40	400	400	160,000
2	Packing Roll	10	8	80	160	12,800
3	Tobacco Bag	15	30	450	80	36,000
4	Rose Flavor			10 Lt.	1200	12,000
5	Kesar			5 Kg	2000	10,000
6	Kewara			4 Kg	1500	6,000
7	PG Chemical			12 Lt	80	960
8	Flawar Liquid			8 Lt	1200	9,600
9	Sandal Oil			15 Lt	4000	60,000
10	Flavarewed Wala			15 Lt	1200	18,000
11	Bcnwil			40 Lt	80	3,200
12	Musk			4 Lt	1800	7,200
13	Ginger Grass			40 Lt	1700	68,000
14	Fragrance			8 Lt	2200	17,600
15	Curcuma			10 Lt	1900	19,000
16	Pimanto			10 Lt	1800	18,000
17	Hazlenut			12 Lt	1900	22,800
18	T compound			15 Lt	1800	27,000
19	Kimam			15 Lt	80	1,200
20	Pacouli			12 Lt	2800	33,600
21	Glycerin			8 Kg	100	800
22	Musk			2 Lt	1800	3,600
23	Katha	3	30	90 Kg	250	22,500
24	Lime (Chuna)	2	45	90 Kg	25	2,250
25	Supari Dust	10	35	350 Kg	5	1,750
26	2 Roll pieces of Sanjog Pan Masala (Rs 4 each)			32 Kg	160	5,120
27	30 Roll Piece of Laxmi Zarda (Rs 1 each)			300 Kg	160	48,000
					Total	6,26,980

16. A perusal of the impugned order shows that there were several individuals that were related and connected with each other, and were found to be involved in the manufacture and sale of the *pan masala*, in a clandestine manner.

17. According to the Petitioner, the Dabri premises are not owned or rented by the Petitioner. However, this fact is controverted in the impugned order with



detailed facts showing as to how the said premises was in fact connected to the Petitioner, and this is the premises where the Petitioner was clandestinely conducting manufacturing and sale of the *pan masala*.

18. The impugned order also shows that statements have been recorded of several persons, who have given the mode and manner in which the illegitimate trade of *pan masala* was being carried out. By way of illustration, Mr. Prashant Kumar stated to the GST Department that he was responsible for transporting goods of Raj Products, owned by the petitioner, and explained the manner in which these goods were transported from the Dabri premises of the Petitioner.

19. After conducting the entire investigation, the GST Department gave repeated notices to the Petitioner, including notices of personal hearing. Although SCN dated 8th June, 2020 was issued to the Petitioner, no reply was filed by the Petitioner to the same, and the only request that was made by the Petitioner, in 2025, was for cross-examination of some of the witnesses.

20. Two witnesses have already been cross-examined by the Petitioner, and further cross-examination was sought, which was rejected by the Adjudicating Authority in the impugned order, in the following terms:

“B. On the issue of Cross Examination :

(i) M/s. Raj Products vide letter dated 03.04.2025 have requested, without providing any reason, cross-examination of 19 individuals, all of whom are co-noticees in this case. Cross examinations are sought in a very casual manner without any justification or recording of reason for seeking the same. The relevance of cross-examining the witnesses is not mentioned.

(ii) Cross examination of co-noticees whose statements are relied upon is required to be allowed only if the Adjudicating Authority is convinced with the reasons put forth for seeking cross examination. In the requests



no reason for the same is mentioned. In this case, 08 pouch packing machines were found at the unregistered factory premises at Dabri. Unaccounted finished goods and cash was also recovered during the investigation. Commercial Suit is filed by Shri Raj Kumar Gupta in the Hon'ble High Court of Delhi seeking compensation from the defendants alleging clandestine manufacture of the offending goods. This is irrefutable proof that clandestine manufacture of pan masala/ghutka was in progress at the unregistered premises at Dabri, Delhi. These evidence strongly support the allegations levelled in the SCN that finished goods were manufactured in a clandestine manner. Statements of persons concerned with the said illegitimate production, employees, transporters, suppliers of raw material, purchasers of finished goods, all have in their respective statements admitted clandestine manufacture and clearance of the offending goods.”

21. Thus, the only ground that is canvassed before this Court is that the non-providing of an opportunity for cross-examination violates the principles of natural justice.

22. This Court has had the occasion to consider this very issue in similar matters where the Court has observed that the right to cross-examination is not an unfettered right. The Court in ***‘M/s Vallabh Textiles v. Additional Commissioner Central Tax GST, Delhi East and Ors’***, 2025: DHC:2559-DB has observed the same as under:

“15. While cross-examination can be granted in certain proceedings, if it is deemed appropriate, the right to cross-examine cannot be an unfettered right. This has been so held recently by this Court in Sushil Aggarwal v. Principal Commissioner Of Customs (2025:DHC:698-DB). The relevant portion of the decision reads as under:

“15. Accordingly, this Court is of the opinion that in



*order to ensure that there is compliance of Section 138(B) of the Act, **though the same cannot be claimed as an unfettered right in all cases, in the facts of the present case**, both Mr. Sushil Aggarwal and Mr. Aidasani are afforded an opportunity to cross examine Mr. Bhalla.”*

16. The rationale behind setting aside an order/judgment on the grounds of non-provision of the right to cross-examine is to safeguard the affected party from being prejudiced due to non-providing of cross examination. Therefore, such reasoning presumes/implies the existence of prejudice. In other words, if the alleging party fails to prove any substantial prejudice caused to it due to such non-provision, it shall not have the inherent right to set aside such an order/judgment. This view has been upheld by the Supreme Court in various judgments including **M/s. Telestar Travels Pvt. Ltd. v Special Director Of Enforcement 2013(9) SCC 549**. The relevant portion of the said judgment reads as under:

“23. That brings us to the third limb of the attack mounted by the appellants against the impugned orders. It was argued by Mr Divan that while holding that Bountiful Ltd. was a paper company and was being controlled and operated from India by the appellants through Shri Sirish Shah, the adjudicating authority had relied upon the statements of Miss Anita Chotrani and Mr Deepak Raut, and a communication received from the Indian High Commission in London. These statements and the report were, according to Mr Divan, inadmissible in evidence as the appellant’s request for an opportunity to cross-examine these witnesses had been unfairly declined, thereby violating the principles of natural justice that must be complied with no matter the strict rules of the Evidence Act had been excluded from its application. ...

24. Mr Malhotra, on the other hand, argued that the



right of cross-examination was available to a party under the Evidence Act which had no application to the adjudication proceedings under FERA. ... He also placed reliance upon a decision of this Court in Surjeet Singh Chhabra v. Union of India(1997(1) SCC 508 1997 SCC (Cri) 272) to argue that cross-examination was unnecessary in certain circumstances such as the one at hand where all material facts were admitted by the appellants in their statements before the authority concerned.

*25. There is, in our opinion, no merit even in that submission of the learned counsel. It is evident from Rule 3 of the Adjudication Rules framed under Section 79 of FERA that the rules of procedure do not apply to adjudication proceedings. That does not, however, mean that in a given situation, cross-examination may not be permitted to test the veracity of a deposition sought to be issued against a party against whom action is proposed to be taken. It is only when a deposition goes through the fire of cross-examination that a court or statutory authority may be able to determine and assess its probative value. Using a deposition that is not so tested, may therefore amount to using evidence, which the party concerned has had no opportunity to question. Such refusal may in turn amount to violation of the rule of a fair hearing and opportunity implicit in any adjudicatory process, affecting the right of the citizen. **The question, however, is whether failure to permit the party to cross-examine has resulted in any prejudice so as to call for reversal of the orders and a de novo enquiry into the matter. The answer to that question would depend upon the facts and circumstances of each case.***

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18. A perusal of the above decisions reveals that while cross-examination would be required in certain cases, it need not be given as a matter of right in all cases.



The provision of the opportunity to cross-examine depends on the facts and circumstances of each case and is warranted only when the party seeking such an opportunity is able to demonstrate that prejudice would be caused in the absence thereof.

19. The Court is of the considered view that parties cannot, by praying for cross-examination, convert Show-cause Notice proceedings into mini-trials. Persons seeking cross-examination ought to give specific reasons why cross-examination is needed in a particular situation and that too of specific witnesses. **A blanket request to cross-examine all persons whose statements have been recorded by the Department, many of whom are typically employees, sellers, purchasers, or other persons connected to the entity under investigation, cannot be sustained.** If a prayer for cross-examination is made, the Authority has to consider the same fairly and if the need is so felt in respect of a particular person, the same ought to be permitted. If not, the Authority can record the reasons and proceed in the case. Moreover, cross examination need not also be of all persons whose statements are recorded. It could be permitted by the Authority in case of some persons and not all.

20. In the present case, the mere rejection of the Petitioner's request for cross-examination cannot, in and of itself, be treated as a sufficient ground to bypass the statutorily prescribed appellate remedy and invoke the writ jurisdiction of this Court."

23. In the present petition, the Application filed by the Petitioner does not give any reasons for seeking cross examination – that too after a long hiatus. No reply has been filed by the Petitioner to the SCN.

24. The Petitioner's stance before the Adjudicating Authority is that there were counterfeit products which were being manufactured, for which an



Intellectual Property Rights infringement suit has been filed in the Commercial Court.

25. Clearly, from the evidence which has been seen from the impugned order, the Petitioner is making nothing but an attempt to completely wash its hands of the entire clandestine operation.

26. Moreover, the Petitioner has sought repeated adjournments which has been clearly recorded in the impugned order, in the following terms:

“3.2 Statement dated 26.12.2019 of Shri Raj Kumar Gupta was vide his lawyer's letter dated 28.12.2019 informed to have been retracted. However, no vakalatnama was filed by the lawyer. On this fact being pointed out by the investigating agency, vide letter dated 10.01.2020, Shri Dhruv Surana, Advocate submitted vakalatnama, vide letter dated 14.01.2020. Following this Shri Raj Kumar Gupta was issued summons on 17.01.2020 to appear on 22.01.2020 for tendering statement. In response, Shri Dhruv Surana, vide his letter dated 21.01.2020, requested adjournment. Accordingly, summons was issued to Shri Raj Kumar Gupta 28.01.2020 and 06.02.2020, directing him to appearing for tendering statement 05.02.2020 and 10.02.2020. In response to summons dated 06.02.2020, Shri Dhruv Surana sought adjournment. As sufficient opportunities were given to Shri Raj Kumar Gupta, by way of summons issued on three occasions. it appeared that retraction dated 28.12.2019 was nothing but a proforma exercise undertaken on legal advise”

27. In terms of the above, the non-filing of a reply to the SCN and the repeated adjournments which have been sought by the Petitioner, as recorded in paragraph No.3.2 of the impugned order, leaves no manner of doubt that the Petitioner has not co-operated with the Adjudicating Authority. The Petitioner's case, in the opinion of this Court, is *prima facie* not *bona fide*.



28. Additionally, the Adjudicating Authority's order is an extremely detailed order, and has various factual statements made by various witnesses, the seizures which have been made, seizure of raw material, seizure of products, seizure of cash, none of which are disputed by the Petitioner.

29. Under such circumstances, this Court is of the opinion that since repeated notices of personal hearing have been given to the Petitioner, and that the Petitioner has merely sought repeated adjournments from the Adjudicating Authority, there cannot be said to be any violation of the principles of natural justice.

30. Moreover, when the matter involves allegations of clandestine manufacture and sale of *pan masala*, this Court is of the opinion that writ jurisdiction ought not to be exercised.

31. It is pertinent to note that the Id. Counsel for the Petitioner has been given an opportunity to seek instructions as to whether the Petitioner wishes to go in appeal or not. However, the response from the Petitioner is that the Petitioner cannot afford to pay the pre-deposit.

32. Under such circumstances, the Court has no other option but to dismiss the present petition, as the impugned order is clearly an appealable order, for which the appellate remedy ought to have been availed of by the Petitioner.

33. The option to file an appeal has been given to the Petitioner but the same is not availed of on the ground that the Petitioner does not have the financial capability to pay the pre-deposit. The mere adverse financial condition of the Petitioner, for not making the pre-deposit, cannot be a reason to entertain a writ petition on these facts.



2025:DHC:9601-DB



34. Accordingly, the writ petition is dismissed. Pending Applications, if any, are disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

OCTOBER 30, 2025
kk/sm