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

\+ **W.P.(C) 13369/2025 & CM APPL. 54804/2025**

GAURAV JAIN .....Petitioner

Through: Mr. Naveen Malhotra & Mr. Ritvik Malhotra, Advs.

versus

ADDITIONAL DIRECTOR, GOVERNMENT OF INDIA, DIRECTORATE OF REVENUE INTELLIGENCE AND ORS. .....Respondents

Through: Mr. Anurag Ojha, SSC for R-1 & 2
Mr. Harpreet Singh, SC with Mr. Jai Ahuja, Mr. Sanidhya Sharma, Mr. Akshay Saxena & Ms. Shinali Saxena, Advs. for R-3

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

O R D E R

% 08.09.2025

1. This hearing has been done through hybrid mode.

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

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3. The present petition has been filed by the Petitioner - Gaurav Jain under Article 226 of the Constitution of India, challenging the Show Cause Notice dated 29th November 2022 (hereinafter *'impugned SCN'*) passed by the Additional Director, Government of India, Directorate of Revenue Intelligence, Delhi (hereinafter *'DRI'*), seeking to recover the differential duty and penalty in respect of certain consignments which were found in the possession of the

Petitioner. The impugned SCN has been issued under Sections 124 of the Customs Act, 1962 (hereinafter *'the Act'*) whereby Petitioner is called upon to show as to why a penalty under Sections 112(a), 112(b) and 114AA of the Act should not be imposed.

4. A brief background of the case is that certain goods were imported by one Mr. Zakir Khan, at the Kolkata Port and an investigation by DRI was commenced in respect of the said imports. According to the DRI, the same were illegal imports where there was gross misdeclaration and under-declaration by the Petitioner.

5. Further, a Show Cause Notice was also issued by the Commissioner of Customs, Kolkata Port on 27th June 2024 (hereinafter '*second SCN'*) in which the Petitioner's role as a purchaser from Mr. Zakir Khan is recorded as under:

> ***"118.16 <u>Role of Nitin Bansal, Gaurav Jain and Faizan)</u>***
> *i. All the above persons were customers of Zakir Khan and used to procure imported Old and used refurbished electronic goods viz. Computer, Laptops. CPUs/ Barebones, Hard Disks etc. from Zakir Khan. in Cash;*
> *ii. They were aware that Old and used/refurbished electronic goods viz. Computer, Laptops, CPUs Barebones, Hard Disks etc. were restricted for import in India subject to license issued by MoEF DGFT. They were also aware that such imported goods were liable for confiscation:*
> *iii. They admitted that they were aware that Zakir Khan used to import old and used/refurbished - electronic goods viz. Computer, Laptops, CPUs Barebones, Hard Disks etc. by way of mis-declaration before Customs, hence, they used to domestically procure the goods from Zakir Khan instead of importing from overseas.*
> *iv. They used to handover cash amount in lieu of such purchase of imported goods from Zakir to Zakir's*

employees Arshad and Saurav. No invoices were issued by Zakir Khan to them for supply of these imported goods:
v. All of them knowingly and intentionally purchased the goods which they knew were liable for confiscation under Section 111 of the Customs Act. 1962. Therefore, they have rendered themselves liable for imposition of penalty under Section 112 (b) of the Customs Act, 1962."

6. In the second SCN, proceedings ensued and an Order-in-Original has been passed on 28th May 2025 by the Commissioner of Customs, Kolkata Port (hereinafter *'OIO'*). Pursuant to the OIO, the Petitioner – Mr. Gaurav Jain, has also been saddled with a penalty of Rs. 1 crore under Section 112(b)(i) of the Act.

7. Ld. Counsel for the Petitioner submits that the impugned SCN issued by the DRI is in respect of the same goods which were imported by Mr. Zakir Khan and were found in the possession of the Petitioner. It is further submitted that, in respect of the same consignment, two proceedings cannot be initiated. Since the penalty has already been imposed *vide* the OIO, the impugned SCN deserves to be stayed.

8. Mr. Singh, ld. SC for the Respondent No.3 submits that a penalty of Rs. 1 crore has been imposed upon the Petitioner *vide* the OIO. It is stated that Mr. Zakir Khan is the main importer against whom a substantial amount of more than Rs. 1500 crores has been imposed as differential duty and penalty.

9. Mr. Ojha, ld. Counsel for Respondent Nos.1 & 2 submits that he would need to verify if the second SCN is overlapping with the impugned SCN or not.

10. Heard. The Court has considered the matter. A perusal of the second SCN issued by Commissioner of Customs, Kolkata, shows that the same deals

with seizure prescribed under Section 111 of the Act and penalty prescribed under Sections 112(a), 112(b) and 114AA of the Act. Insofar as the impugned SCN issued by DRI, Delhi is concerned, the same is also for seizure prescribed under Section 111 of the Act and penalty under Sections 112(a), 112(b) and 114AA of the Act. *Prima facie* there appears to be some overlapping in these two SCNs.

11. Accordingly, issue notice. Mr. Ojha, ld. Counsel for Respondent Nos.1 & 2 and Mr. Singh, ld. SC for Respondent 3 accepts notice.

12. Let both Counsels file their respective counter affidavits within four weeks.

13. In the meantime, the DRI, Delhi Zonal Unit will take into consideration the OIO dated 28th May 2025 and take a decision within four weeks as to whether the impugned SCN is to be pursued or not. Any order passed in the impugned SCN dated 29th November 2022, shall not be given effect to, without further orders of this Court.

14. List on 2nd December 2025.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

SEPTEMBER 8, 2025

kk/sm