



\$~18

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 13869/2024 and CM APPL. 58050/2024 & CM APPL. 31669/2025

Date of Decision: 28.03.2026

IN THE MATTER OF:

RECKITT BENCKISER INDIA PRIVATE LIMITEDPetitioner

Through: Mr. R. Jawahar Lal and Mr. Sayyam Maheshwari, Advocates.

versus

UNION OF INDIA AND ORS.Respondents

Through: Ms. Shiva Lakshmi, SPC.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV
JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

This matter has been taken up today, as 02.03.2026 was declared holiday.

1. The petition is for setting aside the order dated 27.08.2024 passed by respondent no. 3-Deputy Director of Foreign Trade, whereby, the Service Exports from India ['SEIS'] scrips issued to the petitioner under the Free Trade Policy, 2015-2020, has been cancelled and a penalty of Rs. 10,00,000/- (Rupees Ten Lakh only) has been imposed on the petitioner for obtaining the said scrip by misdeclaration. A further prayer for setting aside communication dated 12.09.2024, informing the petitioner of its inclusion in the 'Denied Entity List', has also been made.



2. The petitioner is a company engaged in the manufacture and marketing of health, hygiene and home products, and a large number of drugs/medicines. It seems to have applied in the year 2021 for issue of SEIS scrips for duty credit for the financial year 2019-2020 with respect to 'Research and Development-services' rendered to its affiliate entities. On 20.06.2022, the said scrips were issued in its favour.

3. Thereafter, on 30.10.2023, respondent no. 3-authority issued a show cause notice to the petitioner under Sections 9 and 11(3) read with Section 13 and 17 of the Foreign Trade (Development and Regulation) Act, 1992 ['Act']. The allegation against the petitioner was that it had obtained SEIS scrips for the financial year 2019-2020 on the basis of misinformation and misrepresentations.

4. Further, on 21.06.2024, respondent no. 3-authority issued another show cause notice, alleging that the petitioner's claim for SEIS scrips for the financial year 2019-2020 was not tenable under the category of 'Research and Development'. The petitioner was directed to show cause as to why penalty should not be imposed in terms of Section 11(5) of the Act.

5. The petitioner replied to both the aforesaid show cause notices, and thereafter, respondent no. 3-authority has issued the impugned order dated 27.08.2024 and the impugned communication dated 12.09.2024.

6. Mr. R. Jawahar Lal, learned counsel appearing for the petitioner, places reliance on Rule 10 of the Foreign Trade (Regulation) Rules, 1993 (Rules), and submits that, the impugned action could not have been taken. According to him, the action can be taken only when the SEIS scrips had been obtained by fraud, suppression of facts, or misrepresentation.



According to him, there has not been any fraud, misrepresentation, or suppression of facts by the petitioner.

7. Further, he submits that respondent no. 3-authority does not possess jurisdiction to pass the impugned order dated 27.08.2024, and therefore, the same is *void ab-initio*.

8. Ms. Shiva Lakshmi, learned counsel appearing for the respondent, opposes the aforesaid submissions and contends that the impugned actions are fully justified in law. She, also, submits that the petitioner has an efficacious alternative remedy against the impugned action under Section 15(1)(b) of the Act.

9. Learned counsel for the petitioner places reliance on the decisions of the Supreme Court in ***Magadh Sugar & Energy Ltd. v. State of Bihar and Ors.***,¹ and ***Uniworth Textiles Limited v. Commissioner of Central Excise, Raipur***,² and the decision of the High Court of Madras in ***Daimler India Commercial Vehicles Pvt. Ltd. v. Additional Director General of Foreign Trade and Ors.***³ to submit that challenges to orders passed wholly without jurisdiction may be entertained by the Court under Article 226 of the Constitution, despite availability of alternate remedy.

10. There is no gainsaying that the Court, under its writ jurisdiction, may entertain challenges to orders/proceedings which are wholly without jurisdiction, even when there exists any alternative remedy. However, there exists a distinction between ‘lack of inherent jurisdiction’ and ‘wrongful exercise of jurisdiction’. If the concerned authority does not have jurisdiction over the subject matter of the dispute or the power to pass the

¹ 2021 SCC OnLine SC 801

² (2013) 9 SCC 733



impugned order, he/she would be ‘wholly without jurisdiction’. However, any erroneous decision passed while exercising his/her jurisdiction would amount to mere ‘erroneous exercise of jurisdiction’. Reference may be made to the decision of the Supreme Court in **Asma Lateef v. Shabbir Ahmad**.⁴ In cases of ‘erroneous exercise of jurisdiction’, the ordinary rule of exhaustion of alternate remedies prior to invocation of the writ jurisdiction would apply in full force.

11. A perusal of the impugned order dated 27.08.2024 does not indicate that the same has been passed wholly without jurisdiction. The impugned order has been passed by respondent no. 3-authority, in exercise of his powers under Section 13 of the Act. The same is extracted below, for reference:

“13. Adjudicating Authority.—Any penalty may be imposed or any confiscation may be adjudged under this Act by the Director General or, subject to such limits as may be specified, by such other officer as the Central Government may, by notification in the Official Gazette, authorise in this behalf.”

12. It is seen that the powers under Section 13 may be exercised by any officer authorised in this regard by the Director General of Foreign Trade. As per notification dated 13.06.2013, issued by the Government of India, the Deputy Director General of Foreign Trade is authorised to exercise the said powers, with respect to goods/services/certificate/permission of value upto Rs. 10,00,00,000/- (Rupees Ten Crore only). The said notification is extracted below, for reference:

“In exercise of the powers conferred by section 13 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) and in

³ 2025 SCC OnLine Mad 3257

⁴ 2024 INSC 36.



supersession of the earlier Notifications mentioned below, the Central Government hereby authorizes the officers specified in column 2 of the table below for the purposes of exercising powers under Section 13 read with Section 11 of the FT(DR) Act, 1992, subject to the limits specified against such officers in the corresponding entry in column 3 of the said Table, namely:-

TABLE

S. No	Designation of Officer	Value of goods or services or technology covered by an authorization issued, registration certificate/ permits issued for import or export or in respect of goods or services or technology for which import or export is permitted without any authorization
1.	Additional Director General of Foreign Trade	Without limit
2.	Joint Director General of Foreign Trade	Up to Rs.25 crores
3.	<u>Deputy Director General of Foreign Trade/ Assistant Director General of Foreign Trade</u>	<u>Up to Rs.10 crores</u>
4.	Development Commissioner, Special Economic Zones	Without limit in respect of Export Oriented Units and units in Special Economic Zones
5.	Designated Officer, Department of Electronics & Information Technology	Without limit in respect of units in Software Technology Parks (STPs) and Electronics Hardware Technology Parks (EHTPs).

13. The SEIS scrips, which are the subject matter of the impugned order, are of Rs. 2,37,39,352/- (Rupees Two Crore, Thirty-Seven Lakh, Thirty-Nine Thousand, Three Hundred and Fifty-Two only). Therefore, respondent no. 3-authority has jurisdiction over the subject matter of the dispute as well as the powers to pass the impugned order.

14. In view thereof, the impugned order has not been passed without jurisdiction, and therefore, the grounds urged by the petitioner can be looked



into by the Appellate Authority appropriately under Section 15(1)(b) of the Act. The Court, therefore, under the facts of the present case, deems it appropriate to relegate the petitioner to the Appellate Authority.

15. Petition, along with pending applications, stands disposed of.

16. Let the appeal be presented within 15 days from today. If the appeal is presented, the same shall not be dismissed on the grounds of limitation.

17. Let the appeal be decided with due expedition within a period of three months from the date of receipt of its presentation.

18. The petitioner is granted liberty to seek interim relief before the Appellate Authority.

19. All rights and contentions are left open.

PURUSHAINDRA KUMAR KAURAV, J

MARCH 28, 2026/p