

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No. 1513/2022

(Arising out of impugned final judgment and order dated 19-04-2021 in CWP No. 19871/2020 passed by the High Court of Punjab & Haryana at Chandigarh)

UNION OF INDIA & ANR.

Petitioner(s)

VERSUS

GODREJ AND BOYCE MANUFACTURING CO. LTD.

Respondent(s)

(With IA No.13845/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.13846/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 11-02-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.M. JOSEPH
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s)

Mr. K. K. Venugopal, AG.
Mr. Tushar Mehta, SG.
Mr. N. Venkataraman, ASG.
Mr. Mukesh Kumar Maroria, AOR
Mr. Ankur Talwar, Adv.
Mr. S. K. Singhania, Adv.
Ms. Chinmayee Chandra, Adv.
Mr. Siddhant Kohli, Adv.
Ms. Preeti Rani, Adv.

For Respondent(s)

Mr. Arshad Hidayatullah, Sr. Adv.
Mr. Rupesh Kumar, AOR
Ms. Shailja Kher, Adv.
Ms. Neelam Sharma, Adv.
Ms. Pankhuri Shrivastava, Adv.

UPON hearing the counsel the Court made the following
O R D E R

In this special leave petition, the High Court, in the impugned order, has purported to follow the judgment of this

Court reported in *Canon India Private Limited v. Commissioner of Customs* 2021 SCC Online SC 200. This is a judgment rendered by a Bench of three learned Judges. By the said judgment, this Court has held that an Additional Director General, Directorate of Revenue Intelligence, cannot be treated as proper officer within the meaning of Section 2(34) of the Customs Act read with Section 28 of the said Act. The contention, however, which is raised by the learned Attorney General who is assisted also by Mr. N. Venkataraman, learned Additional Solicitor General, is that the Additional Director General, DRI, is an officer of Customs. Section 6 of the Customs Act which has been found to be the repository of power to appoint a person to exercise the power under Section 28, according to the petitioners, is not relevant insofar as the Additional Director General of DRI is concerned for the reason that he is actually an officer of Customs. What is more, according to the special leave petition, it is stated that he has been authorised by the Board within the meaning of Section 2(34). More importantly, however, when questioned in this regard, it is pointed out that Section 28(11) would come to the rescue of the petitioners for the reason that the Additional Director General will be treated as 'proper officer' under the said provision irrespective of the requirement declared in Section 2(34) of the Customs Act.

It is further pointed out that Section 28(11) could

not be brought to the notice of the Bench which decided *Canon India Private Limited* (supra).

In such circumstances, we are inclined to issue notice in the matter.

Mr. Rupesh Kumar, learned counsel for the respondent, takes notice.

We must now notice in this regard the submission of Mr. Arshad Hidayatullah, learned senior counsel appearing on behalf of the respondent, that admittedly a review is pending questioning the correctness of the judgment in *Canon India Private Limited* (supra). He would, however, seek to address the Court in regard to the submissions of the petitioners.

Accordingly, the case will stand listed on 08th March, 2022.

(NIDHI AHUJA)
AR-cum-PS

(RENU KAPOOR)
BRANCH OFFICER