IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

ON THE 14th OF AUGUST, 2025

WRIT PETITION No. 7778 of 2006

M/S RANBAXY LABORATORIES LTD.

Versus

UNION OF INDIA AND OTHERS

Appearance:

Shri Agrim Arora – Advocate for the petitioner through V.C.
Shri Prasanna Prasad – Advocate for the respondents.

Reserved on : 23.07.2025
Pronounced on : 14.08.2025

ORDER

Per: Justice Vivek Rusia

The present petition is filed under Article 226 of the Constitution of India assailing the order dated 29.12.2005 passed by the Joint Secretary Ministry of Finance, Government of India in exercise of revisional powers under Section 35EE of the Central Excise Act, 1944 (hereinafter referred to as the 'Act of 1944') whereby the revision application preferred by the department was allowed and the order dated 30.11.2004 passed by the Commissioner (Appeals), Central Excise, Indore allowing the rebate claims of the petitioner was set aside.

The factual matrix of the case, in short, is as under:

2. The petitioner is a public limited company incorporated under the Companies Act, 1956, having its manufacturing unit situated at Industrial Area No. 3, Dewas, Madhya Pradesh and is engaged in the manufacture and sale of P & P Medicaments falling under Chapters 29 and 30 of the First Schedule to the Central Excise Tariff Act, 1985. The petitioner manufactures pharmaceutical formulations and sells them, both in the domestic market as well as through export to other countries. Petitioner also exported samples of its finished products to overseas markets for promotional purposes, and originally this export of samples was done without payment of duty under the cover of prescribed statutory Form ARE-1 (Application for Removal of Excisable Goods for Export), and the goods were cleared directly from the factory.

3. The Superintendent of Central Excise, Dewas Range-II vide communication dated 16.09.2002 advised the petitioner that there was no provision for duty-free clearance of export samples under the Central Excise Rules, 2002 and that the samples intended for export were required to be cleared on payment of duty under cover of invoice prepared in accordance with Rule 11 of the Central Excise Rules. Pursuant to the aforesaid communication, petitioner began clearing the said samples on payment of duty and transferring them to its branch office at New Delhi, from where the samples were physically exported. The samples were sealed by the customs authority at the airport before export and all complete export documentation, including shipping bills and export invoices, was prepared at the time of export from New Delhi. The petitioner prepared and placed on record detailed statements correlating invoice numbers, batch numbers, quantity cleared, and quantity exported to establish the correlation between the duty-paid goods cleared from Dewas and the goods exported from New Delhi. This said, the correlation was not disputed at any stage of the proceedings before any authority.

4. The petitioner filed rebate claims dated 05.11.2003 and 24.11.2003 amounting to ₹28,97,561/- and ₹44,85,583/-, respectively with all relevant documents including shipping bills, exchange control copies, export invoices, duty payment documents and correlation charts under Rule 18 of the Central Excise Rules, 2002 (hereinafter referred to as the 'Rules of 2002') for refund of duty paid on such exported samples. In response, the Assistant Commissioner, Central Excise, Ujjain issued query letters dated 28.01.2004 seeking clarification with respect to certain procedural aspects, including the absence of ARE-1 forms and whether the exports were made directly from the factory. The petitioner submitted a detailed reply dated 09.02.2004 with complete documentation evidencing export of duty-paid goods, explaining that the goods were cleared on payment of duty and the same were exported through their New Delhi Branch Office and therefore, no disclaimer certificate was required. Being dissatisfied with the reply, the department issued two show-cause notices dated 26.03.2004 proposing rejection of the rebate claims due non-compliance with the procedure prescribed under Chapter 8 of the Central Board of Excise & Customs (CBEC) Manual and the absence of ARE-1 forms. Petitioner submitted a comprehensive reply dated 27.05.2004 to the said show-cause notice, reiterating that the goods had been exported after payment of duty and that the correlation between the cleared goods and exported goods was fully established and further pointed out that the procedural lapse, if any, was technical and non-substantive in nature.

5. The Assistant Commissioner, Central Excise, adjudicated the show-cause notices and passed two separate orders in original dated 31.08.2004, rejecting the rebate claims on the ground that the petitioner had not filed ARE-1 forms and had not followed the prescribed procedure and that since the goods were not exported directly from the factory, the claims could not be entertained. Being aggrieved by the orders dated 31.08.2004, petitioner preferred two appeals before the Commissioner (Appeals), Central Excise, Indore on 27.10.2004 which

was decided by a common order dated 30.11.2004 whereby the appeals were allowed observing that the substantial conditions for grant of rebate had been fulfilled and that the goods had been exported after payment of duty relying on various decisions of the CESTAT.

6. Aggrieved by the said appellate order, the department preferred a revision application under **Section 35EE of the Act of 1944** before the Joint Secretary, Ministry of Finance, Government of India. The petitioner filed cross-objections, appeared through counsel at the personal hearing and submitted that there was no factual dispute regarding the export of the same goods and that denial of rebate on hyper-technical grounds was impermissible in law. The revisional authority vide order dated **29.12.2005** allowed the revision and restored the original adjudication orders rejecting the rebate claims. The revisional authority held that the procedures laid down under Rule 18 and the CBEC Manual were essential to verify the export of the very same duty-paid goods and that the absence of ARE-1 forms, failure to export directly from the factory, rendered it impossible to establish such correlation. Although the revisional authority acknowledged the principle that procedural infractions should not defeat substantive rights however, it was held that the procedures in question were not merely directory but mandatory in nature and essential to safeguard revenue interests. Hence, this petition is before this Court.

Submissions of the Counsel for the petitioner

7. Shri Arora, learned Counsel appearing on behalf of petitioner, submitted that the revisional authority had committed a grave error in setting aside the well-reasoned order passed by the Commissioner (Appeals) and by disregarding the admitted factual finding that the duty-paid goods cleared from the factory of petitioner were, in fact, exported out of the country. The Joint Secretary exceeded jurisdiction in entertaining and allowing the revision application filed at the behest of the Commissioner of Central Excise without satisfying the

preconditions prescribed under Section 35EE(1A) of the Act of 1944. Learned Counsel submitted that the revision under the said provision could only be entertained after an opinion that the order passed by the Commissioner (Appeals) was not legal or proper, and such an opinion had to be based on material evidence, since in the present case, no such opinion was formed thus, the revision itself was not maintainable. Learned Counsel submitted that the appellate order does not suffers from any perversity or error and was passed by the Commissioner (Appeals) after examining the documentary evidence such as shipping and airway bills, clearance invoices and batch numbers establishing the factual correlation between the duty-paid clearances from the Dewas unit and the eventual export of the said goods from New Delhi. The appellate authority had rightly held that the benefit could not be denied on the basis of mere technical or procedural lapses. The Joint Secretary committed an error in reversing the appellate order merely on suspicion and conjecture because at no point was the export of goods disputed by any authority having full knowledge of the procedures followed.

8. Learned Counsel further submitted that the absence of procedural forms such as ARE-1 could not defeat the substantive claim for rebate, particularly when the goods were admittedly exported and the correlation between the exported goods and the duty-paid goods was fully established. The omission of Form ARE-1 is due to the instructions issued by the Department itself, which had previously directed the petitioner to follow a different procedure for sample exports. It is a settled legal principle that procedural lapses cannot defeat substantive rights under beneficial fiscal legislation.

9. In support of his contention, learned counsel has referred to the relevant provisions of the Central Excise Act, 1944, the Central Excise Rules, 2002 as well as the CBEC Excise Manual and Circular No. 294/10/94-CX dated 30.01.1997 and further placed reliance on judgments of High Courts in ***U.M.***

Cables v. Union of India reported in ***2013 (293) E.L.T. 641 (Bom)***; ***Raj Petro Specialities v. Union of India*** reported in ***2017 (345) E.L.T. 496 (Guj)***; ***Aarti Industries Ltd. v. Union of India*** reported in ***2014 (305) E.L.T. 196 (Bom)*** *and* ***Kaizen Pastomould Pvt. Ltd. v. Union of India*** reported in ***2015 (330) E.L.T. 40 (Bom).***

Submissions of the counsel for the respondent

10. Shri Prasanna Prasad, learned counsel for the respondents, submitted that the impugned revisional order is a well-reasoned and legally sustainable order passed upon due appreciation of the statutory framework and the factual matrix of the case. The petitioner had filed a rebate claim in respect of certain pharmaceutical goods stated to have been exported as free samples however, the same was rejected for want of mandatory compliance with the procedure prescribed under Rule 18 of the Rules of 2002, read with Notification No. 42/2001-CE(NT) dated 26.06.2001. The entire rebate mechanism under the statutory rules is predicated upon the filing and verification of the ARE-1 form. The petitioner had admittedly failed to furnish the ARE-1 forms along with its rebate claim. Learned Counsel further submitted that the attempt to establish correlation through secondary evidence or invoice matching is neither legally permissible nor factually sufficient to meet the mandatory procedural requirements as provided in law. The Revisional Authority had rightly found that in the absence of ARE-1 forms it was not possible to verify whether the goods cleared from the petitioners Dewas factory were the same as those exported from its New Delhi warehouse and that the statutory procedure requires verification of goods at the place of removal and endorsement by the jurisdictional Central Excise Officer which could not have been accomplished without the ARE-1 form.

11. Learned counsel for the respondent submitted that the petitioner, being a major exporter of pharmaceutical products, could not have been unaware of the

procedural obligations under the Act of 1944. The correspondence from the Central Excise authorities as early as in 2002 had communicated that export of samples without payment of duty was not permissible and that such exports must be made on payment of duty followed by rebate claims in the prescribed manner hence the contention of the petitioner that the ARE-1 forms were not prepared due to the nature of the consignments being "free samples" is totally unacceptable and unsustainable. It is further submitted that the revisional order is not vitiated by any error of law or jurisdiction, as the Joint Secretary had exercised his revisional powers in accordance with law, having found that the order passed by the Commissioner was erroneous and unsustainable. Hence, the petition is liable to be dismissed.

12. In support of his contention, learned Counsel for the respondent has placed reliance on judgments of the Hon'ble Apex Court and High Courts in case of ***Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Company*** reported in ***(2018) 361 ELT 577 (SC)***; ***Indian Aluminum Co. Ltd. v. Thane Municipal Corporation*** reported in ***1991 (55) ELT 454 (SC)***; ***Kedarnath Jute Manufacturing Co. Ltd. v. Commissioner of Tax Officer*** reported in ***AIR 1966 SC 12.***; ***Saraswati Sugar Mills v. CCE, New Delhi -II*** reported in ***(2011) 270 ELT 465 (SC)*** *and* ***MPD Industries Pvt. Ltd. v. Union of India*** reported in ***2020 (372) ELT 638 (MP)***.

Appreciation and Conclusion

13. The admitted facts of the case are that the petitioner is engaged in the business of manufacture and sale of P & P Medicaments falling under Chapters 29 and 30 of the First Schedule to the Central Excise Tariff Act, 1985. The petitioner cleared the sample of P & P Medicaments for its own concern in the name Ranbaxy Laboratories Ltd., Industrial Area, New Delhi, on payment of duty. Initially, the petitioner transferred the aforesaid goods from the factory at Dewas on a stock transfer basis to the factory at New Delhi. According to the

petitioner, subsequently, the same goods were cleared to be exported to various foreign agencies from the unit at New Delhi. The petitioner submitted an application to the competent authority claiming a rebate of the duty vide applications dated 05.11.2003 and 24.11.2003. In support of the claim, the petitioner submitted the documents relating to the proof of export viz., shipping bills, bills of exchange, export invoices, etc. The Assistant Commissioner, as well as the Revisional Authority, have rejected the claim solely on the ground that the samples of P & P Medicaments were not exported directly from the Dewas unit, as no ARE-1 was prepared or submitted by the petitioner. It is also not in dispute that ARE-1 is the basic document on which the exporter has to export the goods under the claim of a rebate. If the exporter exports goods from a place other than the factory, then permission for such export is required under sub-para 1.1(ii) of para 1 of Part-I of Chapter 8 of the CBEC's Manual.

14. The rules 18, 19 and 20 of the Rules of 2002 deal with the rebate of duty in the case of export of goods. Rules 18, 19 and 20 are reproduced below for ready reference :

> **RULE 18. Rebate of duty. —** Where any goods are exported, the Central Government may, by notification, grant rebate of duty paid on such excisable goods or duty paid on materials used in the manufacture or processing of such goods and the rebate shall be subject to such conditions or limitations, if any, and fulfilment of such procedure, as may be specified in the notification.
>
> *Explanation*. - For the purposes of this rule, ―export, with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India and includes shipment of goods as provision or stores for use on board a ship proceeding to a foreign port or supplied to a foreign going aircraft.
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> **RULE 19. Export without payment of duty.** — (1) Any excisable goods may be exported without payment of duty from a factory of the producer or the manufacturer or the warehouse or any other premises, as may be approved by the Principal Commissioner or Commissioner, as the case may be.
>
> (2)Any material may be removed without payment of duty from a factory of the producer or the manufacturer or the warehouse or any other premises, for use in the manufacture or processing of goods which are exported, as may be approved by the Principal Commissioner or Commissioner, as the case may be.

(3) The export under sub-rule (1) or sub-rule (2) shall be subject to such conditions, safeguards and procedure as may be specified by notification by the Board.

RULE 20. Ware housing provisions. — (1) The Central Government may by notification, extend the facility of removal of any excisable goods from the factory of production to a warehouse, or from one warehouse to another warehouse without payment of duty.

(2) The facility under sub-rule (1) shall be available subject to such conditions, including penalty and interest, limitations, including limitation with respect to the period for which the goods may remain in the warehouse, and safeguards and procedure, including in the matters relating to dispatch, movement, receipt, accountal and disposal of such goods, as may be specified by the Board.

(3) The responsibility for payment of duty on the goods that are removed from the factory of production to a warehouse or from one warehouse to another warehouse shall be upon the consignee.

(4) If the goods dispatched for warehousing or re-warehousing are not received in the warehouse, the responsibility for payment of duty shall be upon the consignor.

15. As per Rule 18 of the Rules of 2002, the Central Government may, by notification, grant a rebate to duty paid on such excisable goods or materials used in the manufacture or processing of such goods, but that rebate shall be subject to conditions or limitations. Rule 19 stipulates that any excisable goods may be exported without payment of duty from a factory, the warehouse or any other premises as may be approved by the Commissioner, but the same shall be subject to such conditions, safeguards and procedure as may be specified by notification. As per Rule 20, the Central Government may, by notification, extend the facility of removal of any excisable goods from the factory to a warehouse or from one warehouse to another warehouse without payment of duty that too subject to conditions which may include penalty and interest. It shall be the responsibility of the manufacturer to pay of duty on the goods that are removed from the factory of production to a warehouse.

16. Chapter 8 of the CBEC's Excise Manual of Supplementary Instructions deals with the export under claim for rebate. Clause 7 of the Manual is reproduced hereunder :

> ***7. Examination of goods at the place of export***
>
> 7.1 The place of export may be a port, airport, Inland container Depot, Customs Freight Station, of Land Customs Station.
>
> 7.2 The exporter shall present together with original, duplicate and quintuplicate (optional) copies of the application (A.R.E.1) to the Commissioner of Customs or other duly appointed officer – normally goods are presented in the designated export shed.
>
> 7.3 The goods are examined by the Customs for the purpose of Central Excise to establish the identity and quantity, i.e. the goods brought in the Customs are for export on an A.R.E.1 are the same which were cleared from the factory. The Customs authorities also examine the goods for Customs purposes such as verifying for certain export incentives such as drawback, DEEC, DEPB or for determining exportability of the goods.
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> 7.4 For Central Excise purposes, the Officers of Customs at the place of export shall examine the consignments with the particulars as cited in the application (A.R.E.1) and if he finds that the same are correct and the goods are exportable in accordance with the laws for the time being in force (for example, they are not prohibited or restricted from being exported), shall allow export thereof. Thereafter, he will certify on the copies of the A.R.E.1 that the goods have been duly exported citing the shipping bill number and date and other particulars of export.
>
> 7.5 The officers of customs shall return the original and quintuplicate (optional copy for exporter) copies of application to the exproter and forward the duplicate copy of application either by post or by handing over to the exporter in a tamper proof sealed cover to the officer specified in the application, from whome exporter wants to claim rebate. However, where exporter claims rebate by electronic declaration on Electronic Data Inter-change system of Customs, the duplicate shall be sent to the Excise Rebate Audit Section at the place of export.
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> 7.6 The exporter shall use the quituplicate copy for the purposes of claiming any other export incentive.

17. As per sub-clause 7.2, the exporter shall present together with original, duplicate and quintuplicate (optional) copies of the application ARE-1 to the Commissioner of Customs at the time of presentation of the goods in the designated export shed. The goods shall be examined by the customs for the purpose of Central Excise to establish the identity and quantity of the goods for export on an ARE-1 are the same which were cleared from the factory. Therefore, the goods which are being brought to the place of export should be accompanied by ARE-1 in order to satisfy that the identity and quantity of the

goods are the same which are mentioned in the ARE-1. The ARE-1 is always prepared by the Central Excise Officer deputed at the place of manufacture who satisfies that the goods packed for export and mentioned in the ARE-1 are the same.

18. In order to claim the rebate as per Clause 8.2 of the CBEC Manual, it shall be essential for the exporter to indicate on the ARE-1 at the time of removal of the export goods, the office and its complete address with which they intend to file the claim of rebate. The documents which shall be required for filing a rebate are mainly an original copy of ARE-1. Therefore, the revisional authority has rightly held that without the ARE-1, the claim of rebate cannot be allowed.

19. As per the CBEC's Excise Manual, the exporter has 02 optional procedures regarding the manner in which they may clear the export consignments from the factory or the warehouse, namely :

(i) Examination and sealing of goods at the place of despatch by a Central Excise Officer.
(ii) Under self-sealing and self-certification.

20. Admittedly, the petitioner did not follow the aforesaid procedure, and in the absence of the aforesaid procedure, it is not possible to ascertain whether the goods exported by the petitioner are the same which were cleared by them from their unit at Dewas. Therefore, in the absence of ARE-1, it will not be possible for the authorities to allow the claim of a rebate.

21. Shri Arora, learned Counsel for the petitioner has placed reliance on the judgment passed by the High Court of Judicature at Bombay in case of ***U.M.Cables (supra)*** wherein it has been held that non-production of original and duplicate copy of ARE-1 *ipso facto*, it cannot invalidate rebate claim, because the exporter can demonstrate by cogent evidence that the goods were exported and duty paid. However, in the case of ***U.M.Cables (supra)***, the ARE-1 forms were prepared, but the original and the duplicate were lost, for which an FIR was also lodged. Therefore, the Court has held that from other documents, the burden can

be discharged. But in the present case, the ARE-1 was not prepared at all, which is mandatory under the Central Excise Act, 1944 and the Rules of 2002. Shri Arora, learned Counsel, has also placed reliance on the judgment passed by the Division Bench of High Court of Gujarat at Ahmedabad in the case of ***Raj Petro Specialities (supra)*** wherein the original ARE-1 were lost/stolen for which an FIR came to be lodged at the Police Station. Therefore, the two cases relied upon by the learned Counsel for the petitioner i.e. ***U.M.Cables*** and ***Raj Petro Specialities (supra)***, will not be of any help to the petitioner.

22. On the other hand, Shri Prasanna Prasad, learned counsel for the respondent has produced the copy of Notification No. 42/2001-CE(NT) dated 26.06.2001 issued in exercise of powers conferred by sub-rule (3) of rule 19 of the Central Excise Rules, 2001 notifying the conditions and procedure for export of all the excisable goods without payment of duty from the factory or the warehouse which includes the form ARE-1. The Form ARE-1 is reproduced hereunder for ready reference :

FORM A.R.E. 1

Application for removal of excisable goods for export by (Air/Sea/Post/Land)*

To

Superintendent of Central Excise

.....(Full Postal Address)

1. Particulars of [Assistant/Deputy Commissioner of Central Excise]/Maritime Commissioner of Central Excise from whom rebate shall be claimed/with whom bond/undertaking is executed and his complete postal address.

2. I/We ..... of .....propose to export the under-mentioned consignment to ..... (Country of destination) by Air/Sea/Land/Parcel Post under claim for rebate/bond/undertaking*.

Particulars of Manufacturer of goods-and his Central Excise Registration No.	**No. and Description of packages**	**Gross weight/Net weight**	**Marks and Nos. on packages**	**Quantity of goods**	**Description of Goods**
(1)	(2)	(3)	(4)	(5)	(6)

Value	**Duty**		**No. and date of Invoice under which duty was paid/No. and date of bond/undertaking executed under Rule 19**	**Amount of Rebate claimed**	**Remarks**
	Rate	**Amt. (Rs.)**			
(7)	(8)	(9)	(10)	(11)	(12)

3. I/We hereby certify that the above- mentioned goods have been manufactured.
   (a) availing facility/without availing facility of CENVAT credit under CENVAT Credit Rules, 2001
   (b) availing facility/without availing facility under Notification 41/2001-CE(N.T.), dated 26th June, 2001 issued under rule 18 of Central Excise(No.2) Rules, 2001.
   (c) availing facility/without availing facility under Notification 43/2001-CE(N.T.), dated 26th June, 2001 issued under rule 19 of Central Excise(No.2) Rules, 2001.
4. I/We hereby declare that the export is in discharge of the export obligation under a Quantity based Advance Licence/ /Under Claim of Duty Drawback under Customs & Central Excise Duties Drawback Rules, 1995.
5. I/We hereby declare that the above particulars are true and correctly stated.
   Time of Removal.....

Signature of owner or his
Authorised agent with date.
Name in Block Letters & Designation (SEAL)

PART A

CERTIFICATION BY CENTRAL EXCISE OFFICE

1. Certified that duty has been paid by debit entry in the Personal Ledger Account No. .....and/or CENVAT Account Entry No..……or recorded as payable in Daily Stock Account, on the goods described overleaf. OR Certified that the owner has entered into Bond No. ..... under Rule 19 of Central Excise (No.2) Rules, 2001 with the.....…….[F.No._____], duly accepted by the Assistant Commissioner/Deputy Commissioner of Central Excise_____ on _____(Date).
2. Certified that I have opened and examined the packages No..... ……..... and found that the particulars stated and the description of goods given overleaf and the packing list (if any) are correct and that all the packages have been stuffed in the container No. ..... with Marks ..... and the same has been sealed with Central Excise Seal/One Time Seal (OTS) No. .....
3. I have verified with the records, the exporter is only availing the export incentives, as specified in box No.6. and found it to be true.
4. Certified that I have drawn three representative samples from the consignment (wherever necessary) and have handed over, two sets thereof duly sealed to the exporter/his authorised representative.

Place.....
Date .....…

Signature
(Name in Block Letters)
Superintendent of Central Excise

Signature
(Name in Block Letters)
Inspector of Central Excise

PART B

CERTIFICATION BY THE CUSTOMS OFFICER

Certified that the consignment was shipped under my supervision under Shipping Bill No_____ dated _____by S.S./Flight No. _____which left on the_____ day of_____ (Month)_____(year) OR Certified that the above-mentioned consignment was stuffed in Container No._____ belonging to Shipping Line_____ based on the "Let Export Order" given on _____day of._____(Month)_____year) on the Shipping Bill No_____ dated_____ and sealed by seal/one time lock No._____ in my supervision and the container was handed over to the Custodian M/s_____ for being shipped via _____(Name of the Port). OR Certified that the above-mentioned consignment has been duly identified and has passed the land frontier today at_____in its original condition under Bill of Exports No_____ Place_____Date_____.

Signature
(Name and designation of the Customs
Officer in Block Letters)/(Seal)

23. In the above form ARE-I, there are columns for mentioning the particulars for the Manufacturer of goods and the Central Excise Registration number, description of packages, gross weight and description of the goods. Part A of the form is to be certified by the Central Excise Officer, and Part B is a certification by the Customs Officer who certifies that the above-mentioned consignment was stuffed in the container number after verification of the contents from the container and details mentioned in the ARE-I.

24. Shri Prasanna Prasad, learned counsel, has relied upon the judgment passed by the Coordinate Bench of this Court in the case of MPD Industries Pvt. Ltd. vs. Union of India, wherein the writ petition has been dismissed as the petitioner therein failed to comply with the various statutory provisions by not producing the bills of export. Learned counsel has also placed reliance on the judgment passed by the Constitution Bench of the Apex Court in the case of ***Commissioner of Customs (Import) Mumbai (supra)*** wherein the Apex Court has held that the statute must be construed according to the intention of the legislature. The words in the statute, when clear, plain and unambiguous, only one meaning can be inferred; Courts are bound to give effect to the said meaning.

25. It is further submitted that the scope of judicial review is very limited under Articles 226 and 227 of the Constitution of India as held by the Apex Court in case of ***Shalini Shyam Shetty & Anr. vs. Rajendra Shankar Patil, (2010) 8 SCC 329***. The relevant paragraph No. 49 of the order is reproduced hereunder :

> "*On an analysis of the aforesaid decisions of this Court, the following principles on the exercise of High Court's jurisdiction under Article 227 of the Constitution may be formulated:*
> *(a) A petition under Article 226 of the Constitution is different from a petition under Article 227. The mode of exercise of power by the High Court under these two Articles is also different.*
> *(b) In any event, a petition under Article 227 cannot be called a writ petition. The history of the conferment of writ*
> *The jurisdiction of High Courts is substantially different from the history of conferment of the power of Superintendence on the High*

Courts under Article 227 and have been discussed above.

(c) High Courts cannot, on the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or Courts inferior to it. Nor can it, in exercise of this power, act as a Court of appeal over the orders of Court or tribunal subordinate to it. In cases where an alternative statutory mode of redressal has been provided, that would also operate as a restraint on the exercise of this power by the High Court.

(d) The parameters of interference by High Courts in exercise of its power of superintendence have been repeatedly laid down by this Court. In this regard the High Court must be guided by the principles laid down by the Constitution Bench of this Court in Waryam Singh (supra) and the principles in Waryam Singh (supra) have been repeatedly followed by subsequent Constitution Benches and various other decisions of this Court.

(e) According to the ratio in Waryam Singh (supra), followed in subsequent cases, the High Court in exercise of its jurisdiction of superintendence can interfere in order only to keep the tribunals and Courts subordinate to it, `within the bounds of their authority'.

(f) In order to ensure that law is followed by such tribunals and Courts by exercising jurisdiction which is vested in them and by not declining to exercise the jurisdiction which is vested in them.

(g) Apart from the situations pointed in (e) and (f), High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of tribunals and Courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.

(h) In exercise of its power of superintendence High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or Courts subordinate to it, is a possible view. In other words the jurisdiction has to be very sparingly exercised.

(i) High Court's power of superintendence under Article 227 cannot be curtailed by any statute. It has been declared a part of the basic structure of the Constitution by the Constitution Bench of this Court in the case of L. Chandra Kumar vs. Union of India & others, reported in (1997) 3 SCC 261 and therefore abridgement by a Constitutional amendment is also very doubtful.

(j) It may be true that a statutory amendment of a rather cognate provision, like Section 115 of the Civil Procedure Code by the Civil Procedure Code (Amendment) Act, 1999 does not and cannot cut down the ambit of High Court's power under Article 227. At the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227.

(k) The power is discretionary and has to be exercised on equitable principle. In an appropriate case, the power can be exercised suo motu.

(l) On a proper appreciation of the wide and unfettered power of the High Court under Article 227, it transpires that the main object of this Article is to keep strict administrative and judicial control by the High Court on the administration of justice within its territory.
(m) The object of superintendence, both administrative and judicial, is to maintain efficiency, smooth and orderly functioning of the entire machinery of justice in such
a way as it does not bring it into any disrepute. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and Courts subordinate to High Court.
(n) This reserve and exceptional power of judicial intervention is not to be exercised just for grant of relief in individual cases but should be directed for promotion of public confidence in the administration of justice in the larger public interest whereas Article 226 is meant for protection of individual grievance. Therefore, the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline pointed out above.
(o) An improper and a frequent exercise of this power will be counter-productive and will divest this extraordinary power of its strength and vitality."

26. Therefore, in view of the above discussion, we are of the considered opinion that no interference is warranted in the impugned order dated 29.12.2025 passed by the Joint Secretary, Ministry of Finance/respondent No.2. Accordingly, the petition stands dismissed.

(VIVEK RUSIA)
JUDGE

(BINOD KUMAR DWIVEDI)
JUDGE

vidya