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

\# **CNR No. DLHC010351162026**

\+ CUSAA 80/2026

LE MEI PLASTIC MANUFACTURING PRIVATE LIMITED

.....Appellant

Through: Mr. Amar Dave, Sr. Adv. along with Mr. Kumar Visalaksh, Mr. Rahul Khurana, Mr. Udit Jain, Mr. Saurabh Dugar and Ms. Ramidi Pavani, Advs.

versus

THE CUSTOMS AUTHORITY FOR ADVANCE RULINGS, DELHI & ANR. .....Respondents

Through: Ms. Anushree Narain, SSC along with Mr. Apurv Yadav, Adv.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MS. JUSTICE SHAIL JAIN

O R D E R

% **04.08.2026**

CUSAA 80/2026

1. The present Appeal has been filed under Section 28KA of the Customs Act, challenging the Impugned Order passed by Respondent No.1, whereby the earlier order dated 06.08.2025 passed by CAAR issued in favour of the Appellant has been declared *void ab initio* under Section 28K of the Customs Act.

2. Learned Senior Counsel for the Appellant has been heard at considerable length.

3. The brief background of the matter is that the Appellant had approached CAAR seeking an advance ruling regarding the

classification of certain imported goods, namely Aluminium Plates, Magnesium Alloy Sheets, Heat Dissipating Films, Silicon Pads, Conductive Foams, Antenna, Double Side Tape and Dust Proof Paper, which are stated to be used in the manufacture of front covers, middle covers and back covers of mobile phones.

4. CAAR, after considering the submissions of the Appellant as well as the comments furnished by the jurisdictional Commissionerate, passed the order dated 06.08.2025.

5. Subsequently, an application under Section 28K of the Customs Act was filed before CAAR by the Commissioner alleging that the aforesaid Advance Ruling had been obtained by misrepresentation of material facts. The said application was considered and allowed by CAAR *vide* the Impugned Order, declaring the order dated 06.08.2025 to be *void ab initio*.

6. The Appellant has challenged the aforesaid order by invoking the statutory appellate remedy provided under Section 28KA of the Customs Act.

7. Having considered the nature of controversy involved, this Court is of the view that the present Appeal raises issues requiring detailed consideration, including the scope and applicability of Section 28K of the Customs Act, the circumstances in which an advance ruling may be declared *void ab initio*, and the procedural safeguards required to be followed while exercising such power.

8. The present Appeal raises arguable questions requiring examination.

9. *Admit.*

10. The Registry is directed to list the present Appeal in the Regular List for final disposal in the month of October, 2026.

11. The parties are at liberty to file additional documents, if any, in accordance with law.

<u>CM APPL. 50544/2026</u> ***[Stay of Order dated 03.07.2026]***

12. The present application has been filed by the Appellant seeking an interim stay of the operation of Order No. CAAR/DEL/LE MEI/26/2026-27 dated 03.07.2026 [‘Impugned Order’] passed by Respondent No.1 i.e. the Customs Authority for Advance Rulings, Delhi [‘CAAR’], whereby the earlier CAAR order dated 06.08.2025 bearing No. CAAR/DEL/LE MEI/44/2025 has been declared *void ab initio* under Section 28K of the Customs Act, 1962 [‘Customs Act’].

13. Learned senior counsel representing the Appellant submits that the Impugned Order has been passed in proceedings initiated at the instance of the jurisdictional Commissioner, who, instead of availing the statutory appellate remedy against the order dated 06.08.2025 passed by CAAR, preferred an application under Section 28K of the Customs Act seeking to have the said Advance Ruling declared *void ab initio*.

14. He further submits that the proceedings under Section 28K were initiated without furnishing all the documents and material relied upon by the Commissioner in support of the application. It is also submitted that several documents, including statements and other material relied upon by the authorities, were not supplied to the Appellant, thereby depriving the Appellant of an effective opportunity of responding to the allegations.

15. He next submits that the allegations regarding misrepresentation of facts were vague and lacked necessary particulars. It is contended that all relevant facts relating to the imported goods, their usage, manufacturing process and functional role had already been disclosed

by the Appellant during the original advance ruling proceedings. It is submitted that the Commissioner had participated in those proceedings and had furnished its comments before CAAR, which were duly considered while passing the order dated 06.08.2025.

16. This Court has considered the aforesaid submissions.

17. At this stage, this Court is examining the prayer for interim protection and is not expressing any final opinion on the merits of the controversy involved in the Appeal.

18. The effect of staying the operation of the Impugned Order passed by CAAR dated 03.07.2026 would be that the earlier order dated 06.08.2025, which has subsequently been declared *void ab initio* by CAAR in exercise of powers under Section 28K of the Customs Act, would revive and continue to operate during the pendency of the present proceedings.

19. *Prima facie*, this Court is of the view that by way of an interim order, it would not be appropriate to nullify the effect of the subsequent order passed by CAAR, particularly when CAAR, while passing the Impugned Order, has recorded a finding that the original Advance Ruling was obtained on the basis of misrepresentation of material facts.

20. The question as to whether such finding recorded by CAAR is sustainable in law, whether the requirements of Section 28K of the Customs Act stood satisfied, and whether the proceedings suffered from any procedural infirmity, including violation of principles of natural justice, would require detailed examination at the stage of final hearing of the Appeal.

21. In view of the aforesaid circumstances, this Court is not inclined to grant interim stay of the operation of the Impugned Order

at this stage.

22. Accordingly, the prayer for interim relief sought in the present application is declined.

23. During the course of hearing, learned Senior Counsel for the Appellant has further submitted that the proceedings under Section 28K of the Customs Act were initiated after a period of approximately eight (08) months from the date of passing of order dated 06.08.2025.

24. On being specifically queried by the Court, learned Senior Counsel for the Appellant submits that, as per his instructions, the provisions of the Customs Act do not prescribe any specific period of limitation for filing an application under Section 28K of the Customs Act.

25. In view of the above, CM APPL. 50544/2026 stands dismissed.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

AUGUST 4, 2026
s.godara/pal