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* IN THE HIGH COURT OF DELHI AT NEW DELHI
% *Judgment reserved on: 07.09.2026*
Judgment pronounced on: 16.09.2026
Judgment uploaded on: 16.09.2026

\# **CNR No. DLHC010986722018**
\+ W.P.(C) 3391/2018 and CM APPL. 13405/2018

RIDHI SIDHI OVERSEAS .....Petitioner
Through: Dr. Prabhat Kumar, Mr. Karan Kanwal, Mr. Pralabh Mathur, Advs.

versus

PRINCIPAL COMMISSIONER OF CUSTOMS & ORS. .....Respondents
Through: Mr. Gibran Naushad, SSC, Mr. Suraj Shekhar Singh, Mr. Hasan Haider and Mr. Anish Mishra, Advs.

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

J U D G M E N T

ANIL KSHETARPAL, J.:

1. Through the present Writ Petition, the Petitioner seeks quashing of Final Order No. F.-3276 to 3278/CUS/2018-SC(PB) dated 26.02.2018 [hereinafter referred to as "Impugned Order"] passed by the Customs, Central Excise and Service Tax Settlement Commission, Principal Bench, New Delhi [hereinafter referred to as "Settlement Commission"].

2. By the Impugned Order, the Settlement Commission disposed of three settlement applications, including the application filed by the Petitioner and the applications filed by Shri Sumit Khandelwal and Shri Manoj Dugar, Directors of M/s Dugar Overseas Pvt. Ltd. The

present Writ Petition, however, has been instituted only by the Petitioner and the challenge is confined to the Impugned Order insofar as it concerns the Petitioner.

FACTUAL MATRIX:

3. In order to appreciate the controversy arising in the present Petition, it would be appropriate to notice the relevant facts as recorded by the Settlement Commission. The correctness of the factual narration, insofar as it is material to the present controversy, has not been shown to be disputed before this Court.

4. The case arose out of an investigation conducted by the Directorate of Revenue Intelligence, Mumbai Zonal Unit [hereinafter referred to as "DRI"] into alleged under-invoicing and consequent misdeclaration of the transaction value and Retail Sale Price [hereinafter referred to as "RSP"] of confectionery items imported from M/s Seville Products Ltd., Dubai. The intelligence developed by the DRI indicated that importers of confectionery items, including wafers, cookies and toffees, were allegedly declaring values lower than the actual values of the goods with a view to evading Customs duty. The differential amount corresponding to the suppressed value was allegedly being remitted to the overseas suppliers through non-banking channels.

5. The Petitioner, a proprietary concern of Shri Navin Singh, was one of the importers covered by the investigation. During the period from 2008-09 to 2010-11, the Petitioner imported 21 consignments of assorted confectionery items from M/s Seville Products Ltd. through different ports, including Nhava Sheva, ICD Tughlakabad and

Chennai.

6. Pursuant to the investigation, the premises of Shri Prakash Menon, stated to be the Indian representative of M/s Seville Products Ltd., Mumbai, and the premises of the Petitioner were searched on 18.10.2013 and 10.02.2014, respectively. During the search, invoices raised by M/s Seville Products Ltd. upon the Petitioner and Statements of Account maintained by the overseas supplier in respect of the Petitioner were recovered. The values reflected in the said documents were higher than the values declared before the Customs authorities at the time of clearance of the goods.

7. During investigation, statements of Shri Navin Singh, proprietor of the Petitioner-firm, were recorded on 11.02.2014 and 26.06.2015. The Settlement Commission recorded that, upon being confronted with the invoices reflecting the actual value and the Statements of Account maintained by M/s Seville Products Ltd., Shri Navin Singh admitted that the values reflected therein represented the actual value of the consignments imported by the Petitioner. He further admitted that the difference between the actual invoices and the invoices submitted to the Customs authorities was paid through Shri Sumit Khandelwal and/or Shri Manoj Dugar. He also admitted that the RSP in respect of the goods imported under the 21 Bills of Entry had been misdeclared.

8. The investigation quantified the differential Customs duty payable in respect of the 21 Bills of Entry at Rs.1,15,88,712/-. The break-up of the differential duty, as noticed by the Settlement

Commission, is set out below:

Sr. No.	*Port of Import*	*Period*	*No. of Bill of Entry*	*Declared Ass Value*	*Re-determined Value*	*Differential Duty*
1	*Nhava Seva*	*Within 5 years*	*7*	*3804600*	*12906607*	*4098395*
2	*ICS TKD*	*Within 5 years*	*1*	*453967*	*1552828*	*469969*
Total			*8*	*4258567*	*14459435*	*4568364*
3	*Nhava Sheva*	*Beyond 5 years*	*9*	*7316587*	*18499019*	*4794160*
4	*ICD TKD*	*Beyond 5 years*	*2*	*1478925*	*4354590*	*1159990*
5	*Chennai*	*Beyond 5 years*	*2*	*1453062*	*4068454*	*1066198*
Total			*13*	*10248574*	*26922063*	*7020348*
Grand Total			*21*	*14507141*	*41381498*	*11588712*

9. The above figures are significant to the controversy before this Court. Out of the total differential duty of Rs.1,15,88,712/-, an amount of Rs.45,68,364/- related to imports falling within five years, whereas an amount of Rs.70,20,348/- related to imports which were beyond five years.

10. During the course of investigation, the Petitioner deposited a total amount of Rs.85,00,000/- voluntarily. The Settlement Commission recorded that, in his statement dated 26.06.2015, Shri Navin Singh admitted the differential duty liability of Rs.1,15,88,712/- and stated that the amount of Rs.85,00,000/- voluntarily deposited during investigation should be adjusted towards the differential duty payable for the period 2008-09 to 2010-11. He further stated that the remaining amount would be paid subsequently which was not deposited or paid.

11. The manner in which the said voluntary deposit of

Rs.85,00,000/- was proposed to be appropriated towards the differential duty pertaining to the imports beyond five years was also noticed in the proceedings. The relevant break-up is as under:

<table>
<tr><th>Sr No.</th><th>Port of Import</th><th>Period</th><th>Differential Duty (Rs.)</th><th>Amount deposited voluntary (Rs.)</th><th>Balance amount left (Rs.)</th></tr>
<tr><td>3</td><td>Nhava Sheva</td><td>Beyond 5 years</td><td>4794160</td><td rowspan="3">85,00,000/-</td><td rowspan="3">14,79,652/-</td></tr>
<tr><td>4</td><td>ICD TKD</td><td>Beyond 5 years</td><td>1159990</td></tr>
<tr><td>5</td><td>Chennai</td><td>Beyond 5 years</td><td>1066198</td></tr>
<tr><td colspan="3">Total</td><td>7020348/-</td><td>85,00,000/-</td><td>14,79,652/-</td></tr>
</table>

12. After conclusion of the investigation, the DRI issued the Show Cause Notice dated 21.08.2015. The Show Cause Notice, inter alia, proposed re-determination of the transaction value of the goods imported under the 21 Bills of Entry, re-determination of the RSP, demand of differential duty of Rs.45,68,364/- pertaining to the period within five years under the extended period contemplated by Section 28 of the Customs Act, 1962 [hereinafter referred to as "Customs Act"], along with applicable interest, and appropriation of Rs.70,20,348/- from the amount of Rs.85,00,000/- voluntarily deposited during investigation towards the differential duty pertaining to the period beyond five years.

13. The Show Cause Notice further proposed confiscation of the imported goods under Sections 111(d) and 111(m) of the Customs Act, though the goods were not physically available, imposition of penalty upon Shri Navin Singh, proprietor of the Petitioner-firm, under the relevant provisions of the Customs Act, and appropriation of the balance amount of Rs.14,79,652/- towards the duty and interest

liability.

14. The Show Cause Notice was initially answerable to three different adjudicating authorities having jurisdiction over the respective ports of import. The relevant particulars of the consignments and the adjudicating authorities, as noticed in the proceedings, are set out below:

Sr. No.	Port of Import	Period	No. of Bill of Entry	Declared Ass Value	Re-determined Value	Differential Duty	Adjudicating Authority
1	*Nhava Seva*	*Within 5 years*	*7*	*3804600*	*12906607*	*4098395*	*Joint/Additional Commissioner, Nhava Sheva -1, Mumbai-Zone-II*
2	*ICS TKD*	*Within 5 years*	*1*	*453967*	*1552828*	*469969*	*Joint/Additional Commissioner, ICD TKD (import)*
Total			*8*	*4258567*	*14459435*	*4568364*	
3	*Nhava Sheva*	*Beyond 5 years*	*9*	*7316587*	*18499019*	*4794160*	*Joint/Additional Commissioner, Nhava Sheva -1, Mumbai-Zone-II*
4	*ICD TKD*	*Beyond 5 years*	*2*	*1478925*	*4354590*	*1159990*	*Joint/Additional Commissioner, ICD TKD (import)*
5	*Chennai*	*Beyond 5 years*	*2*	*1453062*	*4068454*	*1066198*	*Joint/Additional Commissioner, Chennai II*
Total			*13*	*10248574*	*26922063*	*7020348*	
Grand Total			*21*	*14507141*	*41381498*	*11588712*	

15. The Show Cause Notice accordingly called upon the Petitioner to show cause, inter alia, as to why the transaction value of the goods

imported under the 21 Bills of Entry should not be taken as per the actual value invoices and the assessable value re-determined as Rs.4,13,81,498/- under Section 14 of the Customs Act read with Rule 3(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, instead of the declared assessable value of Rs.1,45,07,141/-.

16. The Petitioner was further called upon to show cause as to why the declared RSP should not be rejected and re-determined; why differential duty of Rs.45,68,364/- pertaining to the period within five years should not be demanded and recovered under the extended period contemplated by Section 28 of the Customs Act along with applicable interest; why the amount of Rs.70,20,348/- pertaining to the period beyond five years should not be appropriated from the amount of Rs.85,00,000/- voluntarily deposited during investigation; and why the imported goods should not be held liable to confiscation and the applicable penalties not imposed.

17. M/s Seville Products Ltd. and its CEO, Mrs. Prerna Singh, were also called upon to show cause as to why penalty under Section 112(a) of the Customs Act should not be imposed upon them. Shri Sumit Khandelwal and Shri Manoj Dugar, Directors of M/s Dugar Overseas Pvt. Ltd., were likewise called upon to show cause as to why penalty under Section 112(a) of the Customs Act should not be imposed upon them.

18. The Petitioner thereafter approached the Settlement Commission under Chapter XIV-A of the Customs Act. In its settlement application, the Petitioner admitted the differential duty

liability of Rs.45,68,364/- pertaining to imports through Nhava Sheva and ICD Tughlakabad falling within the period of five years, along with interest liability quantified at Rs.30,73,905/-. The Petitioner requested that the admitted duty and interest liability be adjusted from the amount of Rs.85,00,000/- deposited during investigation.

19. In respect of the remaining amount of Rs.70,20,348/- pertaining to the period beyond five years, the Petitioner disputed its liability on the ground that the same was beyond the extended period prescribed under Section 28 of the Customs Act and relied upon various decisions in support of its contention. The Petitioner also sought waiver of fine in lieu of confiscation on the ground that the goods were no longer available for confiscation and sought immunity from prosecution and penalty.

20. Since the Show Cause Notice was answerable to three adjudicating authorities, the Petitioner sought transfer of the proceedings to the Principal Bench of the Settlement Commission. A common adjudicating authority had, in the meantime, been appointed pursuant to the relevant order and notification.

21. The Settlement Commission, after considering the settlement applications, the reply of the Revenue and the submissions advanced at the hearing, passed the Impugned Order dated 26.02.2018 under Section 127C(5) of the Customs Act.

22. The Settlement Commission accepted the differential duty liability of Rs.45,68,364/- pertaining to the period within five years. As regards the amount of Rs.70,20,348/- pertaining to the period beyond five years, the Settlement Commission held that although the

limitation under Section 28 of the Customs Act restricted the Department's statutory power to issue a demand beyond the prescribed period, such limitation did not prevent the importer from voluntarily paying the duty liability.

23. The Settlement Commission, in particular, took note of the statement of Shri Navin Singh dated 26.06.2015, wherein he had admitted the total differential duty liability of Rs.1,15,88,712/- and had stated that the amount of Rs.85,00,000/- voluntarily deposited by the Petitioner should be adjusted towards the differential duty payable for the period 2008-09 to 2010-11.

24. On that basis, the Settlement Commission appropriated Rs.70,20,348/- out of the amount of Rs.85,00,000/- towards the differential duty pertaining to the imports beyond five years. The remaining amount of Rs.14,79,652/- was appropriated towards the settled duty liability of Rs.45,68,364/-, leaving a balance duty liability of Rs.30,88,712/-.

25. The Settlement Commission further directed the jurisdictional Commissioners to calculate the interest liability and communicate the same to the Petitioner. Although the goods were held liable to confiscation, no redemption fine was imposed since the goods were not physically available and had not been seized. Penalties were imposed upon the Petitioner and the co-applicants in terms of the Impugned Order and immunity from prosecution, subject to fulfilment of the stipulated conditions, was also granted.

CONTENTIONS OF THE PARTIES:

26. Contentions of the Petitioner:

26.1. Learned counsel for the Petitioner submits that the Settlement Commission could not have permitted appropriation of Rs.70,20,348/- towards the differential duty pertaining to imports beyond the period of five years prescribed under Section 28 of the Customs Act.

26.2. Reliance was placed upon the judgment of the Bombay High Court in ***C.J. Shah & Co. v. Union of India & Anr.***[1], to contend that the Revenue cannot recover a demand which is barred by limitation. According to learned counsel, once the Settlement Commission itself noticed that the relevant Bills of Entry related to a period beyond five years, the amount relatable thereto could not have been appropriated from the deposit made by the Petitioner.

26.3. It is further submitted that the Petitioner, in its settlement application, had specifically disputed the liability of Rs.70,20,348/- on the ground that the amount pertained to imports beyond the extended period of five years. He submits that the Petitioner had sought settlement only of the admitted liability of Rs.45,68,364/- together with applicable interest and had never sought settlement of the amount of Rs.70,20,348/-.

26.4. Learned counsel further submits that Section 127C(5) of the Customs Act empowers the Settlement Commission to pass an order in accordance with the provisions of the Customs Act and, therefore, the Settlement Commission could not have travelled beyond the

[1] (2018) 359 ELT 22 (Bom.)

limitation prescribed under Section 28. It is contended that the direction for appropriation of Rs.70,20,348/- effectively amounts to permitting recovery of a time-barred demand.

27. Contentions of the Respondents:

27.1. *Per contra*, learned Standing Counsel for the Respondents submits that the Petitioner seeks to conflate two distinct matters, namely, the statutory power of the Department to issue a demand under Section 28 of the Customs Act and the voluntary payment already made by the Petitioner during the course of investigation.

27.2. He submits that no fresh demand under Section 28 was raised for the period beyond five years. According to him, the amount of Rs.85,00,000/- had already been voluntarily deposited by the Petitioner and Shri Navin Singh, proprietor of the Petitioner-firm, had specifically stated in his statement dated 26.06.2015 that the said amount should be adjusted towards the differential duty payable for the period 2008-09 to 2010-11.

27.3. It is further submitted that the statements of Shri Navin Singh dated 11.02.2014 and 26.06.2015 were never retracted. Learned Standing Counsel also points out that the Petitioner has not filed any rejoinder to the counter-affidavit and has not placed before this Court the aforesaid statements, notwithstanding the specific reliance placed upon them by the Settlement Commission as well as the Respondents.

27.4. He submits that the Settlement Commission was exercising jurisdiction under Chapter XIV-A of the Customs Act in proceedings initiated at the instance of the Petitioner itself. The Petitioner had approached the Settlement Commission seeking settlement of its liability and consequential immunity. The Impugned Order, according to the Respondents, therefore, carries the finality contemplated under Section 127J of the Customs Act.

27.5. Reliance has also been placed upon ***India Cements Ltd. v. Collector of Central Excise, Madras***[2], for the proposition that limitation operates against the remedy available to the Revenue for recovery through the statutory demand mechanism, but does not prevent voluntary payment of an admitted liability from being retained and appropriated

ANALYSIS & FINDINGS:

28. This Court has considered the submissions advanced by learned counsel for the parties and perused the material placed on record.

29. The amount of Rs.85,00,000/- had already been deposited by the Petitioner during the course of investigation. The Settlement Commission has recorded that Shri Navin Singh, proprietor of the Petitioner-firm, in his statement dated 26.06.2015, admitted the total differential duty liability of Rs.1,15,88,712/- and stated that the amount of Rs.85,00,000/- voluntarily deposited during investigation should be adjusted towards the differential duty payable for the period 2008-09 to 2010-11.

30. The distinction between the statutory demand mechanism and the treatment of an amount already voluntarily deposited is material to the adjudication of the present Petition. The question before this Court

[2] 1984 (18) E.L.T. 499 (Trib.)

is not whether the Department could, after expiry of the statutory period, initiate a fresh proceeding for recovery of the amount of Rs.70,20,348/-. The question is whether, in the settlement proceedings initiated by the Petitioner, the Settlement Commission could take into consideration the voluntary deposit already made and direct its appropriation in the manner recorded in the Impugned Order.

31. The Settlement Commission has specifically recorded the statement of Shri Navin Singh dated 26.06.2015. It has also recorded that the Petitioner had voluntarily deposited Rs.85,00,000/- during investigation and that the said amount was to be adjusted towards the differential duty payable for the period 2008-09 to 2010-11.

32. The Respondents have reiterated this factual position in paragraph 3 of their counter-affidavit. The said paragraph reads as under:

> *"3. I say and submit that the Petitioner's proprietor, Sh. Navin Singh made a categorical statement on 11.02.2014 and 26.06.2015 during the course of investigation before the custom authorities wherein he voluntarily admitted that he was involved in the illegal practice of evasion of custom duty as enumerated in the paragraph above. He further accepted the Petitioner's liability to pay the differential custom duty of INR. 1,15,88,712/- to the Department of Custom which was inclusive of the differential duty payable for the period 2008-09 to 2010-11. In pursuance of this, the Petitioner voluntarily deposited a sum of INR. 85,00,000/- towards payment and adjustment of differential custom duty stated above further made a statement to pay the outstanding amount of INR. 30,99,712/- within one week from the relevant date."*

33. Significantly, no rejoinder to the counter-affidavit has been filed by the Petitioner. The Petitioner has also not placed on record the statements dated 11.02.2014 and 26.06.2015 of Shri Navin Singh. Consequently, there is no material before this Court which would enable it to dislodge the factual findings recorded by the Settlement

Commission regarding the admissions made by Shri Navin Singh, the voluntary nature of the deposit and the purpose for which the amount was to be adjusted.

34. In particular, the Petitioner has not placed before this Court any material demonstrating that the statement dated 26.06.2015, as noticed by the Settlement Commission, was subsequently retracted. The Settlement Commission itself has proceeded on the basis that the admission and the voluntary payment were not retracted.

35. It is, therefore, not a case where the Revenue, after expiry of the period prescribed under Section 28 of the Customs Act, unilaterally recovered Rs.70,20,348/- from the Petitioner. The amount of Rs.85,00,000/- had already been voluntarily deposited during investigation. The Settlement Commission thereafter considered the manner in which the said amount was to be appropriated in the settlement proceedings, in light of the statement and admission attributed to the proprietor of the Petitioner-firm.

36. The principle relied upon by the Respondents, namely, that expiry of limitation ordinarily bars the remedy but does not, by itself, extinguish the underlying right, has been noticed in ***India Cements Ltd.*** (supra). The present case turns upon the more limited question of treatment of an amount which had already been voluntarily deposited by the Petitioner and which, according to the factual findings of the Settlement Commission, had been directed by the Petitioner to be adjusted towards the differential duty for the relevant period.

37. The figures recorded in the Impugned Order also make the nature of the direction clear. The total differential duty was quantified

at Rs.1,15,88,712/-. Of this, Rs.45,68,364/- related to the imports within five years and Rs.70,20,348/- related to imports beyond five years. Against this liability, Rs.85,00,000/- had already been voluntarily deposited. The Settlement Commission appropriated Rs.70,20,348/- from the said deposit towards the liability pertaining to the period beyond five years and thereafter appropriated the balance amount of Rs.14,79,652/- towards the settled liability of Rs.45,68,364/-.

38. Thus, the Settlement Commission did not determine the liability of Rs.70,20,348/- by issuing a fresh demand under Section 28 in the Impugned Order. Rather, it dealt with an amount which had already been deposited by the Petitioner during investigation and considered its appropriation in light of the admission and request recorded in the statement of the proprietor.

39. The submission of the Petitioner that the amount of Rs.70,20,348/- had never been sought to be adjusted by it also cannot be accepted at this stage. It is correct that, in the settlement application, the Petitioner disputed its liability to pay Rs.70,20,348/- on the ground that the amount pertained to imports beyond the extended period of five years. However, the Settlement Commission has recorded a separate and specific factual finding based upon the statement of Shri Navin Singh dated 26.06.2015, namely, that the amount of Rs.85,00,000/- voluntarily deposited during investigation was to be adjusted towards the differential duty payable for the period 2008-09 to 2010-11.

40. The distinction between the stand taken in the settlement

application and the request recorded in the statement during investigation is important. The Petitioner may have disputed the enforceability of the amount of Rs.70,20,348/- under Section 28 in the settlement application; nevertheless, the Settlement Commission was entitled to consider the factual record concerning the purpose for which the Rs.85,00,000/- had been voluntarily deposited and the manner in which the proprietor had stated that it should be adjusted.

41. There is no material placed before this Court to demonstrate that the Settlement Commission's recording of the statement dated 26.06.2015 is incorrect. There is also no rejoinder controverting the specific averments made in paragraph 3 of the counter-affidavit. In the absence of such material, the factual findings of the Settlement Commission cannot be displaced merely on the basis of a subsequent assertion made in the writ proceedings.

42. The reliance placed by the Petitioner upon the judgment of the Bombay High Court in ***C.J. Shah & Company*** (supra) does not, in our view, advance its case in the factual setting before this Court.

43. The circumstances considered by the Bombay High Court in ***C.J. Shah & Company*** (supra) were materially different. The payment considered therein was made without prejudice to the rights and contentions of the assessee and the Court was not examining a situation where an importer had voluntarily deposited an amount during investigation and had specifically stated that the amount was to be adjusted towards the differential duty pertaining to the relevant imports beyond five years.

44. The distinction is further material because ***C.J. Shah &***

Company (supra) concerned Anti-Dumping Duty and involved a different factual controversy relating to the origin of the imported goods, wherein the goods were subsequently found to be of Chinese origin rather than Taiwan. The Bombay High Court was, therefore, dealing with a factual and legal situation materially different from the one before this Court.

45. The proposition that the Revenue cannot invoke the statutory machinery under Section 28 after expiry of the period prescribed therein is not, by itself, sufficient to decide the present case. The present case concerns the treatment of a voluntary deposit already made during investigation, coupled with a finding of the Settlement Commission that the proprietor had admitted the liability and had indicated the manner in which the deposit was to be adjusted.

46. The contention that the Settlement Commission, by directing appropriation of Rs.70,20,348/-, effectively brought a time-barred demand through the "back door" also cannot be accepted. The Impugned Order has to be read as a whole. The Settlement Commission first settled the differential duty liability pertaining to the period within five years at Rs.45,68,364/-. It thereafter considered the amount of Rs.85,00,000/- already deposited and, on the basis of the factual findings recorded by it, held that the amount of Rs.70,20,348/- towards the differential duty pertaining to the period beyond five years stands already appropriated. The remaining Rs.14,79,652/- was thereafter adjusted towards the settled liability of Rs.45,68,364/-.

47. Section 127J of the Customs Act provides finality to an order of settlement in terms of the statutory scheme. Such finality does not, of

course, exclude the constitutional jurisdiction of this Court under Article 226 of the Constitution of India. However, the availability of judicial review does not mean that the writ jurisdiction is to be exercised as an appellate jurisdiction over the factual findings recorded by the Settlement Commission.

48. This Court would certainly be entitled to interfere where the Settlement Commission has acted without jurisdiction, has violated the principles of natural justice, has committed a manifest error of law, or has rendered a conclusion which is wholly unsupported by the record. In the present case, however, no such infirmity has been demonstrated.

49. The Petitioner itself invoked the jurisdiction of the Settlement Commission under Chapter XIV-A of the Customs Act. The Settlement Commission considered the Petitioner's admission regarding the differential duty within five years, its objection regarding the amount beyond five years, the voluntary deposit of Rs.85,00,000/- and the statements of the proprietor. The conclusion regarding appropriation of the amount was thus reached on the basis of the material before the Settlement Commission.

50. The fact that the Petitioner disputed the enforceability of Rs.70,20,348/- in its settlement application does not, by itself, establish that the Settlement Commission was precluded from considering the admitted factual position concerning the voluntary deposit. The challenge before this Court, in substance, seeks reconsideration of the factual finding as to the purpose and manner of adjustment of the amount already deposited.

51. This Court is unable to undertake such a re-appreciation of the factual record in exercise of judicial review, particularly when the relevant statements have not been placed before this Court and the factual averments contained in the counter-affidavit have not been controverted by filing a rejoinder.

52. This Court also finds no merit in the submission that the Impugned Order amounts to a fresh determination or recovery of Rs.70,20,348/- under Section 28 of the Customs Act. The operative direction concerns appropriation of an amount already voluntarily deposited during investigation. The finding rendered herein is confined to this factual situation and should not be understood as diluting or extending the statutory period prescribed under Section 28.

53. The present case, therefore, stands on a different footing from a case where the Department seeks to initiate or enforce a statutory demand after expiry of the limitation period prescribed under Section 28. Here, the amount had already been deposited voluntarily; the proprietor had made statements acknowledging the differential duty liability; the Settlement Commission recorded that the statements had not been retracted; and the Settlement Commission further recorded a specific request regarding adjustment of the deposit towards the differential duty pertaining to the period 2008-09 to 2010-11.

54. In these circumstances, the Petitioner has failed to establish any jurisdictional error, violation of natural justice, or manifest error of law warranting interference with the Impugned Order in exercise of the writ jurisdiction of this Court.

CONCLUSION

55. For the foregoing reasons, this Court finds no ground to interfere with Final Order No. F.-3276 to 3278/CUS/2018-SC(PB) dated 26.02.2018 passed by the Customs, Central Excise and Service Tax Settlement Commission, Principal Bench, New Delhi.

56. Accordingly, the present Writ Petition, along with the pending application, is dismissed.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

SEPTEMBER 16, 2026
jai/pal