

S/L 2
08.10.2026
Court. No. 25
Sourav

WPA 28455 of 2026

**Dilip Pujara & Ors.
Vs.
Union of India & Ors.**

*Mr. S. N. Mookherjee, Sr. Adv.
Mr. Kishore Datta, Sr. Adv.
Mr. Anirban Ray, Sr. Adv.
Mr. Samriddha Sen
Mr. Yamini Mookherjee
Mr. Amit Kumar Nag
Ms. Ranjabati Ray
Mr. Saptarshi Kar
Ms. Ankita Jha*

...for the petitioners.

Mrs. Sanjukta Gupta

...for the Union of India.

*Mr. Koushik Bhattacharyya
Ms. Sreeja Mukherjee*

...for the respondent no. 10.

*Mr. Vipul Kundalia, Sr. Adv.
Mr. Nadeem Sulaiman
Mr. Tapan Bhanja*

...for DRI Authority.

1. The petitioners have filed the present writ application
praying for following reliefs:

*(a) A Writ and/or Writs in the nature of
Mandamus be issued directing any
independent law enforcement agency to
investigate into the preparation, notarization
and execution of the affidavit and declaration
being part of the record of the respondent
DRI, inhuman torture suffered by the
petitioners at the hands of the respondent
DRI in the guise of purported interrogation
during their illegal detention on 17 September
2026 and 18 September 2026 at the office of
the respondent DRI at Directorate of Revenue
Intelligence (DRI), Kolkata Zonal Unit,
having office at CBD 93, International*

Financial Hub, Action Area-CBD, New Town, Kolkata-700 161;

(b) A Writ and/or Writs in the nature of Mandamus be issued directing the Respondent DRI be directed to preserve the CCTV footages at the office of the respondent DRI at CBD 93, International Financial Hub, Action Area-CBD, New Town Kolkata – 700161 from 9:30 PM on 17 September 2026 till 08:30 PM on 18 September 2026;

(c) A writ and/or writs in the nature of Mandamus be issued directing the said independent law enforcement agency to file a report before this Hon'ble Court after investigating into the preparation, notarization and execution of the affidavit and declaration being part of the record of the respondent DRI, inhuman torture suffered by the petitioners at the hands of the respondent DRI in the guise of purported interrogation during their illegal detention on 17 September 2026 and 18 September 2026 at the office of the respondent DRI at Directorate of Revenue Intelligence (DRI), Kolkata Zonal Unit, having office at CBD 93, International Financial Hub, Action Area – CBD, New Town, Kolkata – 700 161, and based on such report, the statement obtained from the petitioners and the affidavit and declaration made to sign by the petitioner nos. 1 and 2 on 18 September 2026 be declared illegal and direct the respondent DRI not to use the same in any proceeding;

(d) Writ and/or Writs in the nature of Mandamus be issued directing the Respondent DRI and/or their men, servants, agents, assigns etc. to forthwith withdraw/cancel/rescind the impugned Summons all dated 17 September 2026 issued

by Respondent No. 7 under Section 108 of the Customs Act, 1962 being Annexures “P-6”, “P-7” and “P-8” herein and the purported summons dated 25 September 2026 issued by the Respondent no. 8 under section 108 of the Customs Act, 1962 being Annexures-“P-10” herein and the enquiry, if any, initiated against the petitioner;

(e) Writ and/or Writs in the nature of Mandamus declaring that the statements recorded and/or obtained from the petitioners on 17 September 2026 and 18 September 2026 pursuant to the impugned Summons all dated 17 September 2026 issued by Respondent No. 7 under Section 108 of the Customs Act, 1962 being Annexures “P-6”, “P-7” and “P-8” herein and the enquiry, if any, initiated against the petitioners are invalid and cannot be relied upon by the respondent DRI;

(f) Writ and/or Writs in the nature of Mandamus declaring that the affidavit and declaration obtained from the petitioners on 18 September 2026 pursuant to the impugned Summons all dated 17 September 2026 issued by Respondent No. 7 under Section 108 of the Customs Act, 1962 being Annexures “P-6”, “P-7” and “P-8” herein are invalid and cannot be relied upon by the respondent DRI;

(g) Writ and/or Writs in the nature of Mandamus declaring that the payment of Rs. 6,00,00,000/- under protest as realized from the petitioners on 18 September 2026 pursuant to the impugned Summons all dated 17 September 2026 issued by Respondent No. 7 under Section 108 of the Customs Act, 1962 being Annexures “P-6”, “P-7” and “P-8” herein are not on account of any evaded duty;

(h) Writ and/or Writs in the nature of Prohibition, restraining the Respondent DRI and/or their men, servants, agents, assigns etc. from giving any effect and/or further effect the impugned Summons all dated 17 September 2026 issued by Respondent No. 7 under Section 108 of the Customs Act, 1962 being Annexures “P-6”, “P-7” and “P-8” herein and the purported summons dated 25 September 2026 issued by the Respondent No. 8 under Section 108 of the Customs Act, 1962 being Annexures – “P-10” herein;

(i) A writ of or in the nature of Certiorari commanding the Respondent authorities and each one of them, their men, agents, assignees and subordinates to certify and transmit to his Hon’ble Court, the records of the case including the purported summons all dated 17 September 2026 issued by Respondent No. 7 under Section 108 of the Customs Act, 1962 being Annexures “P-6”, “P-7”, “P-8” herein and Summons dated 25 September 2026 issued by the respondent no. 8 being Annexure “P-10” herein the said affidavits and declarations made to sign by the petitioner being part of the records of the respondent DRI and the statements recorded and/or obtained from the petitioners on 17 September 2026 and 18 September 2026, so that the conscionable justice may be administered by quashing the same;

(j) Issue rule NISI in terms of prayers above;

(k) Interim order restraining the Respondent DRI and/or their men, servants and agents and assigns from taking any coercive step against the petitioners in pursuance to the impugned Summons all dated 17 September 2026 issued by Respondent no. 7 under

Section 108 of the Customs Act, 1962 being Annexures “P-6”, “P-7” and “P-8” herein and the Summons dated 25 September 2026 issued by the respondent no. 8 during pendency of the writ petition before this Hon’ble Court;

(l) Interim order directing the entire interrogation of the Petitioner Nos. 1 and 2 and recording of statements in connection with an inquiry, if any should be conducted in audio visual mode in presence of the advocates of the Petitioners at the office of the respondent DRI at CBD 93, International Financial Hub, Action Area-CBD, New Town, Kolkata – 700 161

(m) Interim order staying the operation of the summons dated 25 September 2026 issued by the respondent NO. 8 to the petitioner nos. 1 and 2 being annexure “P-10” herein, till the disposal of the writ petition;

(n) Pass ad-interim order in terms of prayers (k), (l) and (m) above;

(o) Pass such order or further order or orders and direction or directions as this Hon’ble Court may deem fit and proper.”

2. Learned counsel appearing for the respondent nos. 2 to 5 raised the point of maintainability of the present writ application on the ground that the subject matter of the instant writ application is connected with ‘Group –IV’ i.e., ‘Revenue’ but the petitioner has filed the present writ application before this Court. The second objection raised by the respondent nos. 2 to 5 is that the firm has been summoned but the firm has not filed the present writ application only three petitioners have filed the present writ application who are the partners of the said firm and on behalf of the firm, there is no affidavit has

been filed in the present writ application. The affidavit executed is only by the petitioners in their individual capacity. The third point raised by the petitioners is that the petitioners have filed the present writ application challenging the summons issued by the authorities under Section 108 of the Customs Act, 1962 but the petitioners cannot challenge the summons in the writ application.

3. In support of the submission, he has relied upon the judgment in the case of ***Commissioner of Customs, Calcutta Vs. M.M. Exports***, reported in **2007 (212) E.L.T. 165 (S.C.)** and submits that the Hon'ble Supreme Court in the said case has categorically held that the High Court should not interfere at the stage when the department has issued the summons.
4. Learned counsel for the respondents has relied the further judgment in the case of ***K. Elumalai Vs. Commissioner of Customs, Chennai***, reported in **2017 (355) E.L.T. 241 (Mad.)** and in the case of ***Executive Dir., F. Seyad Rabbani, Seyad Cotton Mills Ltd. Vs. Addl. Dir., Dept. of Revenue Intelligence, Chennai***, reported in **2015 (325) E.L.T 721 (Mad.)** wherein the Hon'ble Madras High Court has relied upon the judgment passed by the Hon'ble Supreme Court in the case of ***Commissioner of Customs, Calcutta Vs. M.M. Exports*** and held that the writ petition is not maintainable by challenging the summons issued under Section 108 of the Customs Act.
5. Learned counsel appearing for the petitioners submits that prayers (a) and (b) are connected with

arbitrary/illegal act of the investigating agency and the prayer of the petitioners before this Court to preserve the CCTV footage as well as allow the advocates of the petitioners to accompany the petitioners during the interrogation by the investigating agency. He further submits that the petitioners have also made the Human Rights Commission as a party, there is a violation of the Human Rights by the DRI while conducting search and as such, this Court having the determination to adjudicate the issue of the present writ application.

6. In support of his submission, he has relied upon the judgment in the case of ***Rampada Sarkar & Anr. Vs. State of West Bengal & Ors.*** reported in **2023 SCC OnLine Cal 5370** wherein the Hon'ble Division Bench of this Court has held that there may in given cases, an overlap of matters relating to panchayats and land or between a residuary matter and land. There is such circumstances, the writ petitioner as *dominus litis* would be entitled to choose between the overlapping groups. By referring the said judgment, the petitioners submit that this Court is having the determination under 'Group – IX' i.e., residuary matters and as such, this Court can decide the issues raised in the present writ application.
7. Learned counsel appearing for the respondent no. 10, the West Bengal Human Rights Commission submits that though the petitioners have made the West Bengal Human Rights Commission as party respondent in the present case but the respondent no. 10 has not received any complaint from the petitioners with regard to

violation of any human right or torture committed by the respondent authorities during search or interrogation.

8. Heard the learned counsel for the respective parties.
Perused the materials on record and the judgments relied by the parties.
9. Schedule B of the Appellate Side Rules provides Classification List of different types of writ proceedings; Group IV – Matters relating to Revenue and Tax Laws (excluding land revenues) consisting of following groups:
 - (a) Assessment/Re-opening of Assessment,
 - (b) Stay of recovery,
 - (c) Refund,
 - (d) Declaration forms,
 - (e) Appeal/Revision,
 - (f) Liability to pay tax/registration and cancellation thereof,
 - (g) Exemptions/deductions,
 - (h) Classification of Tariff items and entries of the Schedule-I,
 - (i) Search and seizure,
 - (j) Adjudication Proceedings,
 - (k) Levy and short levy of duties,
 - (l) Miscellaneous
 Group IX is a Residuary matters.

Group IV is specifically provides the matters relating to Revenue and Tax Laws.

10. In the present case, the petitioners have challenged the summons issued by the respondent authorities dated September 25, 2026 wherein the firm has been directed to appear before the authority on October 6, 2026 at 11.30 a.m. at their office in Indore. Though the petitioners have prayed for a direction with regard to the preservation of the CCTV footage as well as for allowing

an advocate to accompany the petitioners while their interrogation by the respondent authorities and the petitioners have also made the Human Rights Commission as a party but this Court does not find that the petitioners have made any complaint to any authority with regard to the alleged torture committed by the respondent authorities during their interrogation or search.

11. The petitioners have made out a specific case in paragraph no. 22 that after the payments were made, the respondent DRI prepared an affidavit and declaration asked the petitioner no. 2 to send the same from his phone to the petitioner no. 3 and get it printed on a non-judicial stamp paper and notarized from a notary public. At the instructions of the respondent DRI, the petitioner no. 3 was compelled to buy a non-judicial stamp paper and get the said affidavit and declaration as prepared by the respondent DRI printed on the said non-judicial paper and at the further instructions of the respondent DRI got the said affidavit and declaration notarized from a notary public and handed over the same to the respondent DRI at their office.
12. On August 24, 2026, the notice has been sent to the firm requesting for submission of documents. Subsequently, on September 17, 2026 further summons has been issued under Section 108 of the Customs Act. After receipt of the said summons, on September 28, 2026, the petitioners have submitted a reply to the Assistant Director, Directorate of Revenue Intelligence but in the said letter, there is no averment or any allegation that the

respondent authorities during the issuance of summons or during search or interrogation have committed any torture upon the petitioners as alleged in the present writ petition.

13. Considering the above and going through the summons and the averments made in the petition, this Court finds that the petitioners have mainly challenged the summons issued by the respondent authorities under Section 108 of the Customs Act and the case arose from the said issuance of summons, thus, it cannot be said that there is an overlapping between two Groups matter.
14. In view of the above, this Court finds that this Court is not having the determination to hear the matter.
15. The petitioners are given liberty to move the matter before the appropriate Court having determination.
16. Though the matter was listed yesterday, but none appears on behalf of the DRI, Mr. Mookherjee, learned Senior Advocate informed this Court that Mr. Kundalia, Senior Advocate is normally appearing for DIR, accordingly, appearance of Mr. Kundalia, learned senior advocate along with Mr. Sulaiman is regularized.

(Krishna Rao, J.)