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

Date of Decision: 11th December, 2025

Uploaded on: 16th December, 2025

+ **W.P.(C) 17289/2025**

M/S GURU KIRPA ENTERPRISES

.....Petitioner

Through: Mr. Sholab Arora, Adv. (M:
9988544599)

versus

OFFICE OF THE COMMISSIONER OF CUSTOMS
(EXPORT)

.....Respondent

Through: Mr. Aakarsh Srivastava, Adv.
Mr. Ajit Kumar, Assistant
Commissioner

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, *inter alia*, assailing the order dated 26th July, 2025 (hereinafter, '*impugned order*') passed by the Office of Commissioner of Customs (Export), ICD, Tughlakabad. *Vide* the impugned order, the application filed by the Petitioner for amendment of shipping bills under Section 149 of the Customs Act, 1962 was rejected.
3. This is the second round of litigation by the Petitioner whose shipping bills are not permitted to be amended by the Customs Department. In the first round of litigation, this Court had considered the entire matter and had passed order dated 22nd July, 2025 in *W.P. (C) 10409/2025* titled *M/s Guru Kripa*



Enterprises v. Office of the Commissioner of Customs which reads as under:

“2. The present writ petition has been filed by the Petitioner under Article 226 of the Constitution of India seeking expeditious consideration and decision in the representation dated 30th May, 2025.

3. By the said representation, the Petitioner has sought amendment in the shipping bills bearing Nos. 9399699, 9399704, 9399698 and 9409406 dated 25th April, 2024.

The prayer in this petition reads as under:

“a) a writ of mandamus or any other appropriate writ / direction to the Respondent to allow the representation dated 30.05.2025 bearing Diary No. 11365867 and permit the amendment of Shipping Bills bearing numbers 9399699, 9399704, 9399698 & 9409406 dated 25.04.2024 u/s 149 of the Customs Act 1962 to the effect that the CESS amounts of Rs.4,80,162.82, Rs.4,71,588.48, Rs. 4,63,014.14 & Rs. 3,85,845.12 be deemed to be declared in the said Shipping Bills respectively.”

4. The Petitioner is engaged in the business of trading energy drinks. In January, 2024, the Petitioner is stated to have purchased certain consignments of energy drinks from one M/s Sandeep Impex and paid inter alia CESS on such consignments.

5. However, it is the case of the Petitioner that in the shipping bills pertaining to the said purchases, the CESS was inadvertently not declared and therefore, the Petitioner can now not claim any refund of the said CESS. Upon realising the same, the Petitioner filed the representation, seeking to amend the shipping bills under Section 149 of the Customs Act, 1962 (hereinafter, the Act).

6. Ld. Counsel for the Petitioner submits that the said representation was first filed on 16th April, 2025 and then again on 30th May, 2025. The prayer of Mr. Sholab



Arora, ld. Counsel for the Petitioner is that the Customs Department ought to take a decision in this matter as the refund of the Petitioner has been held up.

7. On behalf of the Respondent, Mr. Aakarsh Srivastava, ld. Counsel submits that there are stringent conditions under Section 149 of the Act for permitting editing and amendment in shipping bills. The representation in question has been filed by the Petitioner after almost one year of the exports having been effected. It is further stated that in case of energy drinks, the same requires deeper scrutiny.

8. Mr. Arora, ld. Counsel for the Petitioner submits that all the relevant documents annexed with the petition are sufficient to satisfy the conditions u/s 149 of the Act.

9. In the overall assessment of the facts, this Court deems fit to direct the Customs Department to take a decision on the representations filed by the Petitioner for amendment of shipping bills by 30th September, 2025.

10. The petition itself shall be transmitted to the Department by Mr. Srivastava in support of the representation already made so that the documents can also be taken into account while taking a decision.”

4. As per the above order, the representations of the Petitioner were to be considered along with the annexures filed with the writ petition *i.e.*, ***W.P. (C) 10409/2025*** and then the decision was to be taken in respect of the amendment of shipping bills.

5. The impugned order is dated 26th July, 2025 but was signed on 26th August, 2025. The reasons given for not allowing the representations are as under:

- *“On perusal of Shipping bills filed by the exporter and documents like invoice etc. submitted on e-sanchit,*



it has been found that the applicant have not declared any Cess in the said Shipping Bills.

● *On perusal of documents filed (with Shipping Bills) by the exporter like invoice etc. submitted on e-sanchit, no evidences submitted/available in support of their 'Cess' amendment request."*

6. Ld. Counsel for the Petitioner submits that the entire purpose of the earlier writ petition and the representation has been defeated as the only reason given by the concerned official is that the shipping bills along with the cess payment were not uploaded on the e-sanchit platform. This was an inadvertent error which actually led to the filing of the first writ petition and the representations.

7. On the last date of hearing *i.e.*, 14th November, 2025, after hearing the ld. Counsels for the parties, the following directions were issued by this Court:

"8. Accordingly, let an affidavit be filed by the next date of hearing which shall be deposed by Mr. Rakesh Kumar, the officer who has passed the impugned order.

*9. At this stage, Mr. Srivastava, ld. SSC submits that the impugned order was not passed by Mr. Rakesh Kumar *i.e.*, the official who has digitally signed it.*

10. It is strange as to how the name and designation of the person actually passing the order is not reflected in the impugned order. It is made clear that the officer who has passed the impugned order shall swear the affidavit in the present case within three weeks.

11. The said official shall also join the proceedings virtually on the next date of hearing."

8. Today, Mr. Ajit Kumar, Assistant Commissioner is present virtually and admits that he had passed the impugned order dated 26th July, 2025. He, however, submits that as against the sanctioned strength of 13 officials only 4 are posted in the Commissionerate and due to the heavy load of work, he



had asked his Superintendent to communicate the impugned order.

9. In the opinion of this Court, the explanation given cannot be a justifiable reason given for not signing the actual order. Orders which are passed have to be signed by the Officials who pass the said orders. The communication of the same can be done by anyone else but the name and designation of the Official who is actually passing the order has to be reflected in the order or in any other communication like a Show Cause Notice, failing which there is no way of knowing as to who has passed the order. The accountability of the Officials considerably depletes if the name is not mentioned in the order.

10. This Court *vide* order dated 19th May, 2025 in *W.P. (C) 198/2025* titled *Qamar Jahan v. Union of India, Represented by Secretary, Ministry of Finance & Ors.* had approved the Standard Operating Procedure (hereinafter, 'SOP') for the Customs Department when dealing with baggage cases wherein it was clearly mentioned that the name of the officer concerned who is passing the order shall also be mentioned in the full along with the designation. The same has been published by the Central Board of Indirect Taxes and Customs *vide* letter dated 17th May, 2025. The relevant portion of the said letter reads as under:

*“H. The Order-in-Original should be issued at the earliest and the same should be delivered to the address – postal, e-mail id as well as the WhatsApp number - provided by the Passenger(s), with a clear note that the passenger is free to challenge the same within 90 days (60 days + 30 days), mentioning the email address of the concerned Appellate Forum. **The name of the officer concerned who is passing the order shall also be mentioned in the full.**”*



11. In the opinion of this Court, the same cannot be limited to issues pertaining to baggage cases should be applicable for all the orders and communications issued by the Customs Department. Accordingly, while accepting the explanation for the purpose of this case, it is directed that in future it shall be ensured that in all the Customs matters, all communications and orders ought to be signed with the Name and designation of the Officer who passed the order being mentioned. Preferably – physical or digital signatures ought to be also put on the order, failing which there could be doubts raised as to the genuinity of the order itself.

12. If so required, for the purpose of administrative convenience, they can be communicated by the other officials but the name and the designation of the actual Official cannot be misrepresented in the order or in the communication.

13. Mr. Ajit Kumar is now exempted from appearance.

14. The counter affidavit has been filed. Rejoinder, thereto, be filed within four weeks.

15. List for hearing on 23rd April, 2026.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

DECEMBER 11, 2025/dj/ck