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

+ W.P.(C) 2628/2026 & CM APPL. 12778/2026

A.G. AND SONS HUF

.....Petitioner

Through: Mr. Tarun Gulati, Sr. Adv. with Mr.
Kumar Sambhav and Mr. Karan
Vyas, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Anish Roy SSC CBIC.
Ms. Manisha Agrawal Narain, CGSC
with Mr. Divanshu Advocate

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+ W.P.(C) 2630/2026 & CM APPL. 12782/2026

ASHWIN GOEL

.....Petitioner

Through: Mr. Tarun Gulati, Sr. Adv. with Mr.
Kumar Sambhav and Mr. Karan
Vyas, Advocates.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Ms Arunima Dwivedi, CGSC with
Ms Himanshi Singh, Ms Monalisha
Pradhan, Advs.
Mr. Anish Roy SSC CBIC

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+ W.P.(C) 3579/2026 & CM APPL. 17340/2026, CM APPL.
17341/2026

M/S AC GOEL TRADELINKS PVT. LTD.

.....Petitioner

Through: Mr. Tarun Gulati, Sr. Adv. with Mr.

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Kumar Sambhav and Mr. Karan
Vyas, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Pratima N Lakra CGSC with Mr
Shailendra Kumar Mishra, Adv.
Mr. Anish Roy SSC CBIC.

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE

HON'BLE MR. JUSTICE AJAY DIGPAUL

ORDER

12.05.2026

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1. For the purpose of convenience, the facts in W.P.(C) 2630/2026 are taken and the parties are in agreement that the issues involved in the above cited petitions are similar and identical and as such, consented for deciding the same by this common order.
2. It is borne out of the record that the impugned order dated 30th December, 2025 was passed by the Officer of the rank of Additional Commissioner. One *Mr. Debjit Banerjee* was manning the said post.
3. The said Officer has not given the personal hearing to the petitioner, whereas one *Mr. Sammer Kumar Jha*, an Officer of the same rank, who was earlier occupying said position, has given the hearing.
4. Though it is the contention of the counsel for the respondent that there is no statutory embargo on an Officer who has passed the order impugned in passing the said order based on the notes of final hearing prepared by *Mr. Sammer Kumar Jha*, when confronted, we are unable to convince ourselves that there exist notes by *Mr. Sammer Kumar Jha*, which were available for

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the incumbent officer, *Mr. Debjit Banerjee*, to consider and pass the impugned order.

5. It is *ex facie* clear from the aforesaid that *Mr. Sammer Kumar Jha*, Additional Commissioner, granted the hearing, whereas upon his transfer, *Mr. Debjit Banerjee*, Additional Commissioner, passed the impugned order.

6. Such conduct, in our opinion, amounts to violation of principles of natural justice and order impugned as such goes contrary to the constitutional protections guaranteed under Article 14 of the Constitution of India.

7. Though, it is urged by the counsel for the respondent that the petitioner has an alternate remedy of filing an appeal, however, such bar of existence of statutory remedy will not be attracted in the case in hand, in view of the law laid by the Apex Court in the matter of *Automotive Tyre Manufacturers Assn. v. Designated Authority and Ors.*, the relevant paragraph of the said judgment reads thus:

“83. *The procedure prescribed in the 1995 Rules imposes a duty on the DA to afford to all the parties, who have filed objections and adduced evidence, a personal hearing before taking a final decision in the matter. Even written arguments are no substitute for an oral hearing. A personal hearing enables the authority concerned to watch the demeanour of the witnesses, etc. and also clear up his doubts during the course of the arguments. Moreover, it was also observed in Gullapalli²¹, if one person hears and other decides, then personal hearing becomes an empty formality.*

84. *In the present case, admittedly, the entire material had been collected by the predecessor of the DA; he had allowed the interested parties and/or their representatives to present the relevant information before him in terms of Rule 6(6) but the final findings in the form of an order were recorded by the successor DA, who had no occasion to hear the appellants herein. In our opinion, the final order passed by the new DA offends the basic principle of natural justice. Thus, the impugned notification having been issued on the basis of the final findings of the DA, who failed to follow the principles of natural*

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justice, cannot be sustained. It is quashed accordingly.”

8. The support can also be drawn from the judgment of Hon’ble Apex Court in the matter of **“Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and Others”** [(1998) 8 SCC 1] and the relevant paragraph reads thus:-

“15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged.....”

9. In the aforesaid background, we have no hesitation to entertain the present petition, even if, there exists an alternate remedy as the order impugned is passed in violation of principles of natural justice.

10. That being so, the writ petitions stand allowed in terms of prayer clause ‘d’.

11. We permit the petitioner to appear before the Additional Commissioner along with his written submissions on 25th May, 2026.

12. The aforesaid act on the part of the petitioner shall be without prejudice to his rights and contentions viz. that the documents were not supplied to the petitioner which amounts to denial of opportunity of hearing.

13. The respondent while dealing with the claim of the petitioner afresh shall be sensitive to such request of the petitioner of making the documents

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available and shall deal with the same.

14. The petitions, accordingly, stand allowed in the above terms.
15. Pending applications also stand disposed of.

NITIN WASUDEO SAMBRE, J

AJAY DIGPAUL, J

MAY 12, 2026/sky/ok

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