CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.

PRINCIPAL BENCH,
COURT NO. I

E-HEARING

CUSTOMS APPEAL NO. 54788 OF 2023

[Arising out of the Order-in-Original No. 25/ZR/POLICY/2023 dated 14/03/2023 passed by The Commissioner of Customs (Airport & General), New Delhi.]

M/s Vogue Logistics Pvt. Ltd., **Appellant**
1251/2A, 1st Floor, New Patel Nagar,
New Delhi – 110 008.

VERSUS

Commissioner of Customs, **Respondent**
(Airport & General),
New Customs House, Near IGI Airport,
New Delhi – 110 037.

APPEARANCE

Shri Devesh Tripathi and Ajay Kumar, Advocates – for the appellant.
Shri Shiv Shankar, Authorized Representative (DR) – for the Department

CORAM : **HON'BLE SHRI JUSTICE DILIP GUPTA, PRESIDENT**
HON'BLE SHRI P.V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 50626/2026

DATE OF HEARING/DECISION : 19.03.2026

JUSTICE DILIP GUPTA

The appellant, who is a customs broker, has sought the quashing of the order dated 14.03.2023 passed by the Commissioner of Customs (Airport & General)[1], by which the customs brokers licence of the appellant has been revoked. The

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1. the Commissioner

Commissioner has also forfeited the security deposit and imposed penalty of Rs. 50,000/- upon the appellant.

2. It transpires from the records that an offence report dated 01.07.2022 was forwarded by Joint Commissioner, ACC Export against by the appellant. At the request of the Commissioner, the Joint Commissioner of Customs forwarded the statements of various persons recorded under section 108 of the Customs Act. Subsequently, a show cause notice was issued to the appellant alleging violation of the provisions of regulations 10 (d), (e), (m), and (q) and regulation 13 (12) of the Customs Brokers Licensing Regulations, 2018[2]. An Enquiry Officer was appointed who submitted his inquiry report. The contention of the appellant that the statements recorded under section 108 of the Customs Act, 1962[3] cannot be considered as relevant as the procedure contemplated under section 138B of the Customs Act had not been followed was not accepted by the Enquiry officer for the reason that it was required to be followed only when the proceedings were under the Customs Act and not under the 2018 Regulations. The Enquiry officer thereafter, on the basis of the statements of various persons recorded under section 108 of the Customs Act, concluded that the appellant has violated the aforesaid provisions of the 2018 Regulations.

3. The Commissioner did not accept the finding recorded by the Enquiry Officer that the provisions of section 138B of the Customs Act were not required to be followed. However, the

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2. the 2018 Regulations
3. the Act

Commissioner noticed that in view of the provisions of section 138B (1) (a) of the Customs Act, it was not necessary to examine the persons. The relevant findings of the Commissioner are as follows :-

> "The statements relied upon in these proceedings are :
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> (a) Shri Moti Khanna dated 20.12.21, 29.12.21 & 1.2.22
> (b) Shri Sameer Jha dated 20.12.21, 22.12.21
> (c) Shri Naresh Dholiya dated 16.2.22 and 17.2.22
> (d) Shri Praveen Mangukia dated 16.3.22
> (e) Shri Pankaj Kumar dated 21.12.21
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> Out of the above persons, (a), (b) & (e) are different persons of CB only whereas (e) and (d) are the alleged masterminds behind the diamond export and the beneficial owners of the exporter, M/s Disha Enterprises. Further (e) has not appeared before the investigating authorities barring once and has repeatedly skipped Summons under section 108 thereafter. Both (a) & (b) have purportedly retracted their statements. Therefore, when the CB is seeking recourse to section 138B and cross examination in essence it is seeking to re-investigate persons mentioned at (c) & (d) above as the remaining are either Directors or employees of the CB and continue to do so.
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> 16. **Shri Naresh Dholiya in his statement dated 17.2.22 has among other things stated that Pankaj Kumar, export executive of M/s Vogue Logistics Pvt. Ltd. helped him in concealing the diamonds and that the concealing material was made available in the office of the CB. Therefore, to re-examine statements made by Shri Naresh Dholiya, presence of Shri Pankaj Kumar would also be required as the main allegation is that he (Pankaj Kumar) assisted in packing/ concealing the diamonds pertains. Since Pankaj Kumar has been repeatedly skipping summons, therefore, in the circumstances, I am left with no option but to accept the statement of Naresh Dholiya. Had Pankaj Kumar been cooperative or contradicted the version of Naresh Dholiya, then there would have been merit in the argument of CB to re-examine the statement of Naresh Dholiya.**
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> **I am not in agreement with the view of the Inquiry Officer that the present proceeding being under CBLR, 2018 is not a**

> **proceeding under the Customs Act. However, the question is of academic relevance as it was raised by CB to question certain statements which I have already discussed in preceding paras as to why Naresh Dholiya's statement needs to be accepted since there was no cooperation/ rebuttal/challenge from the person (Pankaj Kumar) who is named in the said statements. This scenario is squarely covered in sub-section (1) read with clause (a) of the above section**".
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> **(emphasis supplied)**

4. Shri Devesh Tripathi, learned counsel appearing for the appellant submitted that the Commissioner was not justified in holding that in view of the provisions of section 138 (1) (a) it was not necessary to examine Naresh Dholiya. Learned counsel submitted that it was necessary for the Commissioner to examine all the persons whose statements had been recorded under section 108 of the Customs Act and after having formed an opinion that the statements have to admitted in evidence should have provided an opportunity for cross-examination of these persons.

5. Shri Shiv Shankar, learned authorized representative appearing for the department has, however, supported the impugned order and submitted that the Commissioner was justified in not calling persons whose statements had been recorded under section 108 of the Customs Act, in view of the provision of section 138 (1) (a) of the Customs Act.

6. In order to appreciate the submission advanced by the learned counsel for the appellant and the learned authorized

representative appearing for the department it will be appropriate to reproduce section 138B of the Customs Act and it is as follows:-

> **"SECTION 138B. Relevancy of statements under certain circumstances.** — (1) A statement made and signed by a person before any gazetted officer of customs during the course of any inquiry or proceeding under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains, -
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> (a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable; or
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> (b) when the person who made the statement is examined as a witness in the case before the court and the court is of opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interests of justice.
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> The provisions of sub-section (1) shall, so far as may be, (2) apply in relation to any proceeding under this Act, other than a proceeding before a court, as they apply in relation to a proceeding before a court".

7. A bare perusal of the said section shows that the statement made and signed by a person before a Gazetted Officer during the course of inquiry or proceedings under the Customs Act shall be relevant for the purpose of proving the truth of the facts when the person who made the statement is examined as a witness in the case and the adjudicating authority forms an opinion that having record the circumstances of the case, the statement should be admitted in evidence in the interest of justice. However, sub-section (a) provides that when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse

party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable, the statement shall be relevant.

8. In the instant case, the Commissioner has not recorded which particular portion of section 138B (1) (a) of the Customs Act would be covered. The Commissioner has made observations only with regard to Naresh Dholiya and in this connection has stated that Naresh Dholiya had stated that Pankaj Kumar, Export Executive of the appellant had helped him in concealing diamonds and the concealing material was kept in the office of the Customs Brokers. In view of this, the Commissioner has concluded that to re-examine the statement made by Naresh Dholiya, the presence of Pankaj Kumar would be required as the main allegation is that he assisted in packing the diamonds. However Pankaj Kumar had been skipping the summons by the investigating agency. The Commissioner has, therefore, concluded that in such circumstances, he had no option but to accept the statement of Naresh Dholiya.

9. The Commissioner was not justified in holding that it was not necessary to examine Naresh Dholiya because it is only Pankaj Kumar who could contradict his statement. Such an exception is not carved out under section 138B (1) (a) of the Customs Act. It was absolutely necessary for the Commissioner to have summoned Naresh Dholiya and if after forming an opinion that the statement should be admitted in evidence,

permit the appellant to cross-examine Naresh Dholiya. The veracity of the statement of Naresh Dholiya could be tested in the light of the cross-examination.

10. This apart, the Commissioner did not summon Pankaj Kumar. It cannot be the case of the Commissioner that Naresh Dholiya or Pankaj Kumar could not be found or were incapable of giving evidence or were kept out by the adverse party nor is it the case that their presence would delay the proceedings. None of the exceptions carved out in section 138B (1) (a) of the Customs Act are applicable.

11. If the Commissioner intended to place reliance upon statements made under section 108 of the Customs Act, it was incumbent upon him, in view of the provision of section 138B (1) of the Customs Act, to summon those persons and then record a finding whether evidence was to be admitted.

12. This issue has been examined by the High Court and the Tribunal in various decisions.

13. In **M/s Surya Wires Pvt. Ltd.** versus **Principal Commissioner, CGST, Raipur**[4], a Division Bench of this Tribunal examined the provisions of section 108 and 138B of the Customs Act as also the provisions of section 9D and 14 of the Central Excise Act, 1944, which are similar to the provisions of section 108 and 138B of the Customs Act, and the observations are:

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4. Excise Appeal No. 51148 of 2020 decided on 01.04.2025

"**28**. It, therefore, transpires from the aforesaid decisions that both section 9D(1)(b) of the Central Excise Act and section 138B(1)(b) of the Customs Act contemplate that when the provisions of clause (a) of these two sections are not applicable, then the statements made under section 14 of the Central Excise Act or under section 108 of the Customs Act during the course of an inquiry under the Acts shall be relevant for the purpose of proving the truth of the facts contained in them only when such persons are examined as witnesses before the adjudicating authority and the adjudicating authority forms an opinion that the statements should be admitted in evidence. It is thereafter that an opportunity has to be provided for cross-examination of such persons. **The provisions of section 9D of the Central Excise Act and section 138B(1)(b) of the Customs Act have been held to be mandatory and failure to comply with the procedure would mean that no reliance can be placed on the statements recorded either under section 14D of the Central Excise Act or under section 108 of the Customs Act.** The Courts have also explained the rationale behind the precautions contained in the two sections. It has been observed that the statements recorded during inquiry/ investigation by officers has every chance of being recorded under coercion or compulsion and it is in order to neutralize this possibility that statements of the witnesses have to be recorded before the adjudicating authority, after which such statements can be admitted in evidence."

(emphasis supplied)

14. In **Ambika International** versus **Union of India**[5] decided on 17.06.2016, the Punjab and Haryana High Court examined the provisions of section 9D of the Central Excise Act. The show cause notices that had been issued primarily relied upon statements made under section 14 of the Central Excise Act. It was sought to be contended by the Writ Petitioners that the demand had been confirmed in flagrant violation of the mandatory provisions of section 9D of the Central Excise Act. The High Court held that if none of the circumstances contemplated by clause (a) of section 9D(1) exist, then clause (b) of section 9D(1) comes into operation and this provides for two steps to be followed. The first is that the person who made the statement has to be examined as a witness before the adjudicating authority. In the second stage, the adjudicating authority has to form an opinion, having regard to the circumstances of the case, whether the statement should be admitted in evidence in the interests of justice. The judgment further holds that in adjudication proceedings, the stage of relevance of a statement recorded before Officers would arise only after the statement is admitted in evidence by the adjudicating authority in accordance with the procedure contemplated in section 9D(1)(b) of the Central Excise Act. The judgment also highlights the reason why such an elaborative procedure has been provided in section 9D(1) of the Central Excise Act. It notes that a statement recorded during inquiry/investigation by an Officer of the department has a possibility of having been recorded under

5. 2018 (361) E.L.T. 90 (P&H)

coercion or compulsion and it is in order to neutralize this possibility that the statement of the witness has to be recorded before the adjudicating authority. The relevant portions of the judgment are reproduced below:

> "15. **A plain reading of sub-section (1) of Section 9D of the Act makes it clear that clauses (a) and (b) of the said sub-section set out the circumstances in which a statement, made and signed by a person before the Central Excise Officer of a gazetted rank, during the course of inquiry or proceeding under the Act, shall be relevant, for the purpose of proving the truth of the facts contained therein.**
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> 16. Section 9D of the Act came in from detailed consideration and examination, by the Delhi High Court, in J.K. Cigarettes Ltd. v. CCE, 2009 (242) E.L.T. 189 (Del.). Para 12 of the said decision clearly holds that by virtue of sub-section (2) of Section 9D, the provisions of sub-section (1) thereof would extend to adjudication proceedings as well.
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> *****
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> 22. **If none of the circumstances contemplated by clause (a) of Section 9D(1) exists, clause (b) of Section 9D(1) comes into operation. The said clause prescribes a specific procedure to be followed before the statement can be admitted in evidence.** Under this procedure, two steps are required to be followed by the adjudicating authority, under clause (b) of Section 9D(1), viz.
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> (i) the person who made the statement has to first be examined as a witness in the case before the adjudicating authority, and

(ii) the adjudicating authority has, thereafter, to form the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interests of justice.

23. **There is no justification for jettisoning this procedure, statutorily prescribed by plenary parliamentary legislation for admitting, into evidence, a statement recorded before the gazetted Central Excise Officer, which does not suffer from the handicaps contemplated by clause (a) of Section 9D(1) of the Act. The use of the word "shall" in Section 9D(1), makes it clear that, the provisions contemplated in the sub-section are mandatory.** Indeed, as they pertain to conferment of admissibility to oral evidence they would, even otherwise, have to be recorded as mandatory.

24. **The rationale behind the above precaution contained in clause (b) of Section 9D(1) is obvious. The statement, recorded during inquiry/ investigation, by the gazetted Central Excise Officer, has every chance of having been recorded under coercion or compulsion.** It is a matter of common knowledge that, on many occasions, the DRI/DGCEI resorts to compulsion in order to extract confessional statements. **It is obviously in order to neutralize this possibility that, before admitting such a statement in evidence, clause (b) of Section 9D(1) mandates that the evidence of the witness has to be recorded before the adjudication authority, as, in such an atmosphere, there would be no occasion for any trepidation on the part of the witness concerned.**

25. **Clearly, therefore, the stage of relevance, in adjudication proceedings, of the statement, recorded before a gazetted Central Excise Officer during inquiry or investigation, would arise only after the statement is admitted in evidence in accordance with the procedure prescribed in clause (b) of Section 9D(1).** The rigour of this procedure is exempted only in a case in which one or more of the handicaps referred to in clause (a) of Section 9D(1) of the Act would apply. **In view of this express stipulation in the Act, it is not open to any adjudicating authority to straightaway rely on the statement recorded during investigation /inquiry before the gazetted Central Excise Officer, unless and until he can legitimately invoke clause (a) of Section 9D(1).** In all other cases, if he wants to rely on the said statement as relevant, for proving the truth of the contents thereof, he has to first admit the statement in evidence in accordance with clause (b) of Section 9D(1). For this, he has to summon the person who had made the statement, examine him as witness before him in the adjudication proceeding, and arrive at an opinion that, having regard to the circumstances of the case, the statement should be admitted in the interests of justice.

26. In fact, Section 138 of the Indian Evidence Act, 1872, clearly sets out the sequence of evidence, in which evidence-in-chief has to precede cross-examination, and cross-examination has to precede re-examination.

27. **It is only, therefore, -**

> (i) **after the person whose statement has already been recorded before a gazetted Central Excise Officer is examined as a**

> **witness before the adjudicating authority, and**
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> (ii) **the adjudicating authority arrives at a conclusion, for reasons to be recorded in writing, that the statement deserves to be admitted in evidence,**
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> **that the question of offering the witness to the assessee, for cross-examination, can arise.**
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> 28. **Clearly, if this procedure, which is statutorily prescribed by plenary parliamentary legislation, is not followed, it has to be regarded, that the Revenue has given up the said witnesses, so that the reliance by the CCE, on the said statements, has to be regarded as misguided, and the said statements have to be eschewed from consideration, as they would not be relevant for proving the truth of the contents thereof.**"
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> **(emphasis supplied)**

15. In **Hi Tech Abrasives Ltd.** versus **Commissioner of C. Ex. & Cus., Raipur**[6] decided on 04.07.2018, the Chhattisgarh High Court also examined the provisions of section 9D of the Central Excise Act. The allegation against the appellants was regarding clandestine removal of goods without payment of duty and for this purpose reliance was placed on the statement of the Director of the Company who is said to have admitted clandestine removal of goods. The contention of the appellants before the High Court was that the statement of the Director could be admitted in evidence only in accordance with the provisions of section 9D of the Central Excise Act. After examining the provisions of sub-sections (1) and (2) of section 9D of the Central

6. 2018 (362) E.L.T. 961 (Chhattisgarh)

Excise Act, and after placing reliance on the judgment of the Punjab and Haryana High Court in **Ambika International**, the Chhattisgarh High Court held:

> "9.3 **A conjoint reading of the provisions therefore reveals that a statement made and signed by a person before the Investigation Officer during the course of any inquiry or proceedings under the Act shall be relevant for the purposes of proving the truth of the facts which it contains in case other than those covered in clause (a), only when the person who made the statement is examined as witness in the case before the court (in the present case, Adjudicating Authority) and the court (Adjudicating Authority) forms an opinion that having regard to the circumstances of the case, the statement should be admitted in the evidence, in the interest of justice.**
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> 9.4 **The legislative scheme, therefore, is to ensure that the statement of any person which has been recorded during search and seizure operations would become relevant only when such person is examined by the adjudicating authority followed by the opinion of the adjudicating authority then the statement should be admitted. The said provision in the statute book seems to have been made to serve the statutory purpose of ensuring that the assessee are not subjected to demand, penalty interest on the basis of certain admissions recorded during investigation which may have been obtained under the police power of the Investigating authorities by coercion or undue influence.**

9.5 ***** **The provisions contained in Section 9D, therefore, has to be construed strictly and held as mandatory and not mere directory.** Therefore, unless the substantive provisions contained in Section 9D are complied with, the statement recorded during search and seizure operation by the Investigation Officers cannot be treated to be relevant piece of evidence on which a finding could be based by the adjudicating authority. A rational, logical and fair interpretation of procedure clearly spells out that before the statement is treated relevant and admissible under the law, the person is not only required to be present in the proceedings before the adjudicating authority but the adjudicating authority is obliged under the law to examine him and form an opinion that having regard to the circumstances of the case, the statement should be admitted in evidence in the interest of justice. **Therefore, we would say that even mere recording of statement is not enough but it has to be fully conscious application of mind by the adjudicating authority that the statement is required to be admitted in the interest of justice. The rigor of this provision, therefore, could not be done away with by the adjudicating authority, if at all, it was inclined to take into consideration the statement recorded earlier during investigation by the Investigation officers.** Indeed, without examination of the person as required under Section 9D and opinion formed as mandated under the law, the statement recorded by the Investigation Officer would not constitute the relevant and admissible evidence/material at all and has to be ignored. **We have no hesitation to hold that the adjudicating officer as well as Customs, Excise and Service Tax**

> **Appellate Tribunal committed illegality in placing reliance upon the statement of Director Narayan Prasad Tekriwal which was recorded during investigation when his examination before the adjudicating authority in the proceedings instituted upon show cause notice was not recorded nor formation of an opinion that it requires to be admitted in the interest of justice.** In taking this view, we find support from the decision in the case of Ambica International v. UOI rendered by the High Court of Punjab and Haryana."
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> **(emphasis supplied)**

16. In **Additional Director General (Adjudication)** versus **Its My Name Pvt. Ltd.**[7] decided on 01.06.2020, the Delhi High Court examined the provisions of sections 108 and 138B of the Customs Act. The department placed reliance upon the statements recorded under section 108 of the Customs Act. The Delhi High Court held that the procedure contemplated under section 138B(1)(b) has to be followed before the statements recorded under section 108 of the Customs Act can be considered as relevant. The relevant paragraphs of the judgment of the Delhi High Court are reproduced below:

> "76. **We are not persuaded to change our view, on the basis of the various statements, recorded under Section 108 of the Act, on which the Learned ASG sought to rely. Statements, under Section 108 of the Act, we may note, though admissible in evidence, acquire relevance only when they are, in fact, admitted in evidence, by the**

7. 2021 (375) E.L.T. 545 (Del.)

adjudicating authority and, if the affected assessee so chooses, tested by cross-examination. We may, in this context, reproduce, for ready reference, Section 138B of the Act, thus:*****

A Division Bench of this Court has, speaking through A.K. Sikri, J. (as he then was) held, in J & K Cigarettes Ltd. v. Collector of Central Excise [2009 (242) E.L.T. 189 (Del.)] that, by virtue of sub-section (2), Section 138B(1) of the Act would apply, with as much force, to adjudication proceedings, as to criminal proceedings.

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We express our respectful concurrence with the above elucidation of the law which, in our view, directly flows from Section 138B(1) of the Act - or, for that matter, Section 9D of the Central Excise Act, 1944.

77. The framers of the law having, thus, subjected statements, recorded under Section 108 of the Act, to such a searching and detailed procedure, before they are treated as relevant in adjudication proceedings, we are of the firm view that such statements, which are yet to suffer such processual filtering, cannot be used, straightaway, to oppose a request for provisional release of seized goods. **The reliance, in the appeal before us, on various statements recorded during the course of investigation in the present case cannot, therefore, in our view, invalidate the decision, of the Learned Tribunal, to allow provisional release of the seized 25400.06 grams of gold jewellery, covered by Bill of Entry No. 107190, dated 20th April, 2019.**"

(emphasis supplied)

17. In **M/s. Drolia Electrosteel P. Ltd.** versus **Commissioner, Customs, Central Excise & Service Tax, Raipur**[8] decided on 30.10.2023, a Division Bench of the Tribunal examined the provisions of section 9D of the Central Excise Act and after placing reliance upon the decision of the Punjab and Haryana High Court in **Jindal Drugs Pvt. Ltd.** versus **Union Of India**[9], observed that if the mandatory provisions of section 9D(1)(b) of the Central Excise Act are not followed, the statements cannot be used as evidence in proceedings under Central Excise Act. The relevant portions of the decision of the Tribunal are reproduced below:

> "14. Evidently, the statements will be relevant under certain circumstances and these are given in clauses (a) and (b) of subsection (1). There is no assertion by either side that the circumstances indicated in (a) existed in the case. **It leaves us with (b) which requires the court or the adjudicating authority to first examine the person who made the statement and form an opinion that having regard to the circumstances of the case, the statement should be admitted in evidence. Of course, the party adversely affected by the statement will have to be given an opportunity to cross examine the person who made the statement but that comes only after the statement is, in the first place, after examination by the adjudicating authority, admitted in evidence.** This has not been done in respect of any of the 35

8. Excise Appeal No. 52612 of 2018 decided on 30.10.2023
9. 2016 (340) E.L.T. 67 (P & H)

> statements. Therefore, all the statements are not relevant to the proceedings.
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> 15. **It has been held in a catena of judgments including Jindal Drugs Pvt. Ltd. versus Union Of India [2016 (340) E.L.T. 67 (P&H)] that section 9D is a mandatory provision and if the procedure prescribed therein is not followed, statements cannot be used as evidence in the proceedings** under Central Excise Act. *****
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> 16. Therefore, the 35 statements relied upon in the SCN are not relevant and hence also not admissible."
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> **(emphasis supplied)**

18. However, the present case the Commissioner refused to summon persons whose statements were recorded under section 108 of the Customs Act only in view of the provisions of section 138B (1) (a) of the Customs Act. It has been found that the provisions of section 138 B (1) (a) of the Customs Act would not be applicable. In this view of the matter it is a fit case where the matter should be remanded to the Commissioner to examine all such persons whose statements were recorded under section 108 of the Customs Act, if such statements were to be relied upon. In case the Commissioner forms an opinion that the statements should be admitted in evidence, then an opportunity should be provided to the appellant to cross-examine such persons. Such a course is being adopted in view of the peculiar facts and circumstances of the case.

19. The matter is of the year 2022. Almost three years have lapsed and it is a case where the Customs Brokers Licence has

been revoked. The Commissioner shall, therefore, make all endeavours to adjudicate the show cause notice at the earliest, and preferably within four months from the date a copy of this order is presented by either of the parties before the Commissioner. The impugned order dated 14.03.2023 passed by the Commissioner is, accordingly, set aside and the matter is remanded to the Commissioner to adjudicate the show cause notice in the light of the directions and observations noted above. It is, however, made clear that the appellant shall not utilize the customs brokers licence till a fresh order is passed by the Commissioner.

20. The appeal is allowed to the extent indicated above.

(Dictated and pronounced in open court.)

(JUSTICE DILIP GUPTA)
PRESIDENT

(P.V. SUBBA RAO)
MEMBER (TECHNICAL)

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