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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Judgment reserved on: 18.08.2026***
Judgment pronounced on: 21.08.2026
Judgment uploaded on: 21.08.2026

\+ CUSAA 75/2025
PARDEEP KUMAR PRASHAR .....Appellant
Through: Mr. Abhas Mishra and Ms. Shruti Jindal, Advs.

versus

COMMISSIONER OF CUSTOMS (AIRPORT AND GENERAL) .....Respondent
Through: Mr. Akash Verma, SSC CBIC, with Ms Aanchal Uppal, Adv.

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

<u>J U D G M E N T</u>

<u>ANIL KSHETARPAL, J.:</u>

1. Through the present Appeal, the Appellant assails the Final Order No. 58517/2024 dated 27.08.2024 ['Impugned Order'] passed by the Customs, Excise and Service Tax Appellate Tribunal, Principal Bench, New Delhi ['CESTAT'] in Customs Appeal No. 51712/2021 [DB]. By the Impugned Order, the CESTAT has dismissed the appeal preferred by the Appellant and upheld the Order-in-Original dated 02.08.2021 passed by the Commissioner of Customs (Airport & General), whereby the Appellant's Customs Broker licence was revoked, the entire security deposit of Rs.75,000/- was forfeited and a

penalty of Rs.50,000/- was imposed under the Customs Brokers Licensing Regulations, 2018 ['CBLR, 2018'].

2. The principal question arising for consideration in the present Appeal is whether the findings recorded by the CESTAT, affirming the revocation of the Appellant's Customs Broker licence, forfeiture of the security deposit and imposition of penalty, give rise to any substantial question of law warranting interference by this Court. The controversy essentially concerns the legal effect of the Appellant's admitted conduct in permitting his Customs Broker licence and credentials to be used by his G-card holder for consideration and in filing a Shipping Bill in the name of an exporter without obtaining authorisation from such exporter.

FACTUAL MATRIX:

3. In order to appreciate the controversy involved in the present Appeal, the relevant facts, in brief, are required to be noticed.

4. The Appellant was holding Customs Broker Licence No. R-94/97, which was stated to have been originally granted in the year 1995 and regularised in the year 1997. The licence was valid during the period relevant to the present proceedings. The Appellant was engaged in the business of Customs clearance and was operating *inter alia* from the Air Cargo Complex, Export, New Delhi.

5. The proceedings against the Appellant emanate from an attempted export of goods under Shipping Bill No. 8904827 dated 12.12.2019, filed in the name of M/s Deepnidhi International

['Deepnidhi'], bearing IEC No. AALFD4113A. The goods covered under the Shipping Bill were declared as "decorative iron material" and the declared FOB value was Rs.66,000/-. The consignment was covered by Master Airway Bill No. 160-1382-7063 and was destined for Stromshaga AB, Sweden.

6. The consignment attracted the attention of the officers of the Special Intelligence and Investigation Branch ['SIIB'], Air Cargo Export Commissionerate, New Customs House, New Delhi, pursuant to intelligence received regarding the attempted export of prohibited goods. The consignment was accordingly placed on hold for detailed examination.

7. On 16.12.2019, the consignment was subjected to 100% examination in the presence of independent witnesses and persons associated with the Customs Broker. During examination, thirty-three (33) brown-coloured corrugated boxes, covered with white HDPE bags and brown adhesive tape, were found. Upon opening the boxes, wooden logs of different sizes, wrapped in bubble wrap and surrounded by thermocol sheets, were recovered.

8. The recovered wooden logs were identified as Red Sanders [*Pterocarpus santalinus*] in assorted shapes and sizes. The total quantity of Red Sanders was found to be approximately 1,158 kilograms. The export of Red Sanders was subject to the requisite permission of the CITES Management Authority. Since no such permission was produced, the goods were treated as prohibited goods and were seized vide Seizure Memo dated 16.12.2019 under Section

110 of the Customs Act, 1962 ['Act'], on the reasonable belief that the same were liable to confiscation under Section 113(d) of the Act.

9. During the course of investigation, the Customs authorities examined the circumstances in which the Shipping Bill had been filed in the name of Deepnidhi. It was found that the Appellant had not obtained any authorisation from Deepnidhi for filing the Shipping Bill in its name. In fact, the investigation revealed that the Appellant had not contacted Deepnidhi before filing the Shipping Bill.

10. The investigation further revealed that the documents relating to the consignment had been provided by Shri Mohit Taneja, stated to be one of the Directors of M/s Soleado Impex. The case of the Department was that Shri Mohit Taneja had requested the Appellant to file the Shipping Bill not in the name of his own firm, but in the name of Deepnidhi, and that the Appellant had acted upon such request. Thus, the Shipping Bill in respect of the consignment containing Red Sanders came to be filed in the name of Deepnidhi without its authorisation or knowledge.

11. It is also relevant to notice the role attributed to Shri Devender Kumar in the investigation. Shri Devender Kumar was the G-card holder associated with the Appellant. His office was situated at L-9, Sunder Singh Building, near Mahipalpur Chowk, New Delhi, separate from the premises of the Appellant. A search of the Appellant's premises was conducted on 16.12.2019 in the presence of the Appellant and independent witnesses. No incriminating document was found from the said premises. A separate search was also conducted at

the premises of Shri Devender Kumar, during which certain documents, including a computer system, were resumed for further investigation.

12. During the investigation, the Appellant's statement was recorded on 16.12.2019. The Appellant stated, *inter alia*, that he used to receive Rs.10,000/- per month from Shri Devender Kumar. The Appellant also stated that he had lent his licence and dongle to Shri Devender Kumar for a price. The CESTAT has relied upon this statement, as also the Appellant's admission before the Tribunal regarding receipt of Rs.10,000/- per month from Shri Devender Kumar, to conclude that the Appellant had permitted Shri Devender Kumar to use his Customs Broker credentials for undertaking Customs transactions.

13. The investigation culminated in the issuance of Show Cause Notice No. 29/KRM/ADC/ACE/2020 dated 09.12.2020 by the Additional Commissioner of Customs, Air Cargo Export Commissionerate. The said proceedings concerned, *inter alia*, the attempted export of Red Sanders under the aforesaid Shipping Bill and the role of the persons associated with the transaction.

14. On the basis of the aforesaid investigation and the offence report contained in the Show Cause Notice dated 09.12.2020, proceedings were initiated against the Appellant under the CBLR, 2018. The Appellant's Customs Broker licence was suspended *vide* order dated 15.12.2020. After granting hearing to the Appellant, the suspension was confirmed *vide* order dated 06.01.2021.

15. Thereafter, a separate Show Cause Notice dated 08.02.2021 was issued to the Appellant under the CBLR, 2018. The Appellant was called upon to show cause as to why his Customs Broker licence should not be revoked, why the security deposit furnished by him should not be forfeited and why penalty should not be imposed for alleged contravention of the obligations prescribed under the CBLR, 2018.

16. An Inquiry Officer was appointed to inquire into the allegations contained in the said Show Cause Notice. Upon completion of the inquiry, a report was submitted. The disciplinary proceedings were thereafter considered by the Commissioner after affording the Appellant an opportunity of hearing. The Commissioner ultimately passed the Order-in-Original dated 02.08.2021, whereby the Appellant's Customs Broker licence was revoked, the entire security deposit of Rs.75,000/- was forfeited and a penalty of Rs.50,000/- was imposed.

CONTENTIONS OF THE PARTIES:

17. Contentions of the Appellant:

17.1. It was submitted that the Impugned Order passed by the CESTAT suffers from non-application of mind, as the Tribunal failed to consider the material submissions and evidence placed on record by the Appellant. It was contended that the Appellant had undertaken verification of the IEC and GST particulars of the exporter and that there was no material to establish that the Appellant had any knowledge of the prohibited goods sought to be exported.

17.2. It was further submitted that the alleged arrangement with Shri Devender Kumar, the G-card holder, could not be treated as a transfer or sale of the Customs Broker licence. According to the Appellant, the amount received from Shri Devender Kumar represented clearance charges/agency commission and there was no transfer of proprietary rights in the licence. It was contended that the expression "sub-letting", relied upon by the Department, does not find place in Regulation 10 of the CBLR, 2018.

17.3. It was next submitted that there was no evidence of any knowledge, connivance or active facilitation on the part of the Appellant in the attempted export of Red Sanders. The fact that the Appellant's premises were searched and no incriminating material was recovered therefrom was also relied upon. It was contended that, in the absence of any material establishing *mens rea* or active involvement, a procedural lapse in relation to KYC or the conduct of the G-card holder could not, by itself, justify the extreme penalty of revocation of the licence.

17.4. It was also submitted that the Appellant had verified the IEC and GST particulars through the available online records and had furnished the relevant documents during the investigation. The Appellant could not, according to learned counsel, be expected to continuously monitor the subsequent status of the GST registration or undertake an independent physical verification of the exporter beyond the requirements prescribed under the applicable Regulations.

17.5. Reliance was placed upon the decision of this Court in ***Kunal***

Travels (Cargo) v. Commissioner of Customs (Import & General), New Customs House, IGI Airport, New Delhi[1], to contend that a Customs Broker cannot be treated as an inspector of the genuineness of every transaction or be fastened with liability for incorrect information innocently furnished on the basis of documents and information supplied by the client, particularly in the absence of knowledge or *mens rea*.

17.6. It was further submitted that the punishment imposed upon the Appellant is grossly disproportionate to the alleged infractions. Reliance was placed upon the decision of this Court in ***Nitco Logistics Pvt. Ltd. v. Commissioner of Customs (Airport & General)***[2], to contend that although a Customs Broker is required to exercise due diligence and supervision, the doctrine of proportionality remains applicable while determining the appropriate punishment, having regard to the gravity of the infraction and the attendant circumstances.

18. Contentions of the Respondent:

18.1. *Per contra*, learned counsel for the Respondent opposed the present Appeal and submitted that the CESTAT had passed a detailed and reasoned order after duly considering the material on record and the submissions advanced by the Appellant. It was contended that the findings against the Appellant were supported by the material on record, including his own statement.

18.2. It was submitted that the Appellant had permitted Shri

[1] 2017 (3) TMI 1494 (Delhi)
[2] 2025 (10) TMI 509 (Delhi)

Devender Kumar to use his Customs Broker licence, dongle and credentials for consideration of Rs.10,000/- per month. According to the Respondent, such an arrangement amounted to an unauthorised transfer of the Customs Broker licence, in violation of Regulation 1(4) of the CBLR, 2018, which expressly provides that a licence shall not be sold or otherwise transferred.

18.3. It was further submitted that the Appellant had failed to discharge his statutory obligations of verification and due diligence. In particular, the Appellant had filed the Shipping Bill in the name of M/s Deepnidhi International without obtaining any authorisation from, or even contacting, the said exporter, and had failed to properly verify the identity and functioning of the exporter. It was contended that the Appellant had thereby violated the obligations prescribed under Regulations 10(a) and 10(n) of the CBLR, 2018.

18.4. It was then submitted that the Appellant could not disown responsibility for the acts of his G-card holder, particularly when he had himself permitted the use of his licence and credentials for consideration. It was contended that the violations were not merely technical or procedural in nature, but constituted serious breaches of the duties and obligations attached to a Customs Broker licence, particularly when the transaction involved an attempted export of prohibited Red Sanders.

18.5. Reliance was placed upon the judgment of the Supreme Court in ***Commissioner of Customs v. K.M. Ganatra & Co.***[3], to submit that

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[3] Civil Appeal No. 2940 of 2008 reported as 2016 (332) E.L.T. 15 (S.C.)

a Customs Broker occupies a position of trust and is required to strictly discharge the obligations prescribed under the applicable Regulations. It was contended that unauthorised use of the Customs Broker licence and serious violations of the statutory obligations warrant strict disciplinary action.

ISSUES FOR DETERMINATION:

19. In view of the rival submissions, the following issues arise for determination:

I. Whether the findings recorded by the CESTAT with respect to the Appellant's alleged violation of Regulations 10(a), 10(d), 10(e) and 10(n) of the CBLR, 2018 suffer from perversity or any error of law warranting interference under Section 130 of the Customs Act, 1962;

II. Whether the Appellant's admitted act of permitting his G-card holder to use his licence and dongle for consideration amounted to an impermissible transfer/parting with the use of the Customs Broker licence contrary to Regulation 1(4) of the CBLR, 2018;

III. Whether the punishment of revocation, forfeiture of security and penalty is so disproportionate to the established misconduct as to warrant interference by this Court?

ANALYSIS & FINDINGS:

20. This Court has carefully considered the submissions advanced on behalf of the parties and perused the material on record.

21. At the outset, it is necessary to bear in mind the nature of the obligations cast upon a Customs Broker under the CBLR, 2018. A Customs Broker is required to discharge the functions entrusted to him in accordance with the statutory framework governing customs clearance and the specific obligations prescribed under the Regulations. Regulation 1(4) of the CBLR, 2018 expressly provides that every licence granted or renewed under the Regulations shall be deemed to have been granted or renewed in favour of the licensee and that "*no license shall be sold or otherwise transferred*". The said provision reads as under:

> *(4) Every license granted or renewed under these regulations shall be deemed to have been granted or renewed in favour of the licensee, and no license shall be sold or otherwise transferred.*

Regulation 10, in turn, prescribes the obligations which a Customs Broker is required to discharge in the course of his business.

22. In the present case, the finding with regard to the Appellant having permitted Shri Devender Kumar to use his Customs Broker licence and dongle for consideration does not rest merely upon an inference drawn by the Department. The Appellant himself, in his statement recorded during investigation, admitted that he was receiving Rs.10,000/- per month from Shri Devender Kumar and that he had lent his licence and dongle to him for a price. The CESTAT has also noticed the Appellant's admission before it regarding the receipt of the said amount.

23. The submission that the amount received by the Appellant represented clearance charges or agency commission does not satisfactorily explain the admitted fact that the Appellant had lent his

licence and dongle to Shri Devender Kumar for consideration. The distinction, therefore, is between permitting a G-card holder to act on behalf of the Customs Broker and parting with the use of the Customs Broker's licence and dongle for a fixed monetary consideration. The latter conduct is expressly prohibited by Regulation 1(4) of the CBLR, 2018.

24. The Appellant's submission that there could be no "transfer" in the absence of transfer of proprietary title in the licence cannot be accepted on the facts of the present case. Regulation 1(4) expressly prohibits the licence from being "*sold or otherwise transferred*". The CESTAT has found that the Appellant had lent his licence and dongle to Shri Devender Kumar for consideration, thereby enabling him to undertake Customs transactions using the Appellant's credentials. The finding of violation of Regulation 1(4) therefore cannot be faulted merely on the ground that proprietary title in the licence was not transferred.

25. The fact that Shri Devender Kumar was a G-card holder associated with the Appellant does not alter this conclusion. His status as the Appellant's G-card holder cannot, by itself, justify the Appellant handing over his licence and dongle to him for consideration. Indeed, the very fact that the Appellant was receiving a fixed amount of Rs.10,000/- per month assumes significance in assessing the nature of the arrangement between the two.

26. The Appellant has sought to contend that the expression "sub-letting" does not find place in Regulation 10 of the CBLR, 2018. The

submission, however, proceeds on an erroneous premise. The issue is not whether the conduct of the Appellant can be labelled as "sub-letting" in the terminology of Regulation 10. The relevant statutory prohibition is contained in Regulation 1(4), which prohibits the sale or otherwise transfer of a Customs Broker licence. The substance of the conduct, rather than the label attached to it, is therefore determinative.

27. The second aspect of the matter concerns the filing of the Shipping Bill in the name of M/s Deepnidhi International. Regulation 10(a) of the CBLR, 2018 requires a Customs Broker to obtain an authorisation from each company, firm or individual by whom he is for the time being employed as a Customs Broker. The said provision reads as under:

> *"10. Obligations of Customs Broker – A Customs Broker shall –*
>
> *(a) obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorisation whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be"*

This obligation assumes particular significance in the present case since it is an undisputed fact, also recorded by the CESTAT, that the Shipping Bill was filed in the name of Deepnidhi without obtaining any authorisation from it.

28. More significantly, the investigation revealed that the Appellant had not even contacted Deepnidhi before filing the Shipping Bill in its name. Thus, this is not a case where the Appellant had obtained an authorisation from the exporter but subsequently acted upon incorrect information supplied by the client. The very person in whose name the Shipping Bill was filed had neither engaged the Appellant for the

transaction nor authorised him to represent it before the Customs authorities.

29. The Appellant was thus not merely confronted with a case of incorrect information supplied by a client. He was approached by a third party, Shri Mohit Taneja, with a request to file the Shipping Bill in the name of another exporter, and instead of declining to undertake such a transaction or advising as to the legal requirement of obtaining the exporter's authorisation, proceeded to file the Shipping Bill in the name of Deepnidhi. The finding under Regulation 10(d) is consequently supported by the material on record.

30. Regulation 10(n) of the CBLR, 2018 further requires a Customs Broker to verify the correctness of the IEC and GSTIN, as also the identity of the client and the functioning of the client at the declared address, by using reliable, independent and authentic documents, data or information. The said provision reads as under:

> *"(n) verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information"*

The obligation under this provision is therefore not exhausted merely by checking whether an IEC or GSTIN exists in the electronic records. The Customs Broker is required to verify the identity and functioning of the client as well.

31. In the present case, the Appellant's reliance upon verification of the IEC and GST particulars of Deepnidhi cannot answer the more fundamental deficiency that he had not obtained any authorisation from Deepnidhi and, as found during investigation, had not even

contacted the said entity before filing the Shipping Bill in its name. Verification of the existence of an IEC or GSTIN cannot, by itself, constitute authorisation by the person in whose name the Customs transaction is undertaken.

32. The Appellant has also relied upon the absence of any incriminating material from his premises and contended that there was no evidence to establish his knowledge or connivance in the attempted export of Red Sanders. This submission, however, conflates two distinct aspects of the proceedings. The question whether the Appellant had prior knowledge of the prohibited goods is distinct from the question whether he discharged the independent statutory obligations imposed upon him as a Customs Broker. A violation of the obligations under the CBLR, 2018 does not cease to be a violation merely because the Department is unable to establish that the Customs Broker was a participant in the underlying offence.

33. The decision in ***Kunal Travels*** *(supra)*, relied upon by the Appellant, does not assist him on the facts of the present case. The principle that a Customs Broker cannot be expected to act as an investigator or to ascertain the correctness of every declaration made by a client cannot be extended to a situation where the Customs Broker had not even obtained authorisation from the person in whose name the Customs transaction was undertaken. The present case is therefore materially distinguishable from a case involving an authorised client furnishing information which subsequently turns out to be incorrect.

34. The circumstances surrounding the filing of the Shipping Bill assume further significance when considered along with the Appellant's admitted arrangement with Shri Devender Kumar. The Appellant had permitted his licence and dongle to be used by his G-card holder for consideration, and the Shipping Bill in question was thereafter filed in the name of an exporter without obtaining its authorisation. These circumstances cannot be viewed as isolated or purely technical lapses. They demonstrate a failure on the part of the Appellant to maintain the degree of control and diligence expected of the holder of a Customs Broker licence.

35. It is true that the record, as noticed by the CESTAT, may not establish that the Appellant himself had knowledge that the consignment contained Red Sanders. However, such knowledge is not a necessary ingredient for establishing the specific regulatory violations which are independently established against him. The disciplinary proceedings concern the Appellant's compliance with the obligations attached to his Customs Broker licence. The admitted lending of the licence and dongle for consideration, coupled with the filing of the Shipping Bill without authorisation from the named exporter and the failure to verify the identity and functioning of the exporter, constitutes sufficient material to sustain the findings of violation under Regulations 10(a), 10(d) and 10(n).

36. The CESTAT has also recorded a finding that the Appellant violated Regulation 10(e) of the CBLR, 2018. Regulation 10(e) requires a Customs Broker to exercise due diligence to ascertain the correctness of any information which he imparts to a client with

reference to any work related to clearance of cargo or baggage. The said provision reads as under:

> *"(e) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage"*

The said provision is, therefore, concerned with the correctness of information imparted by the Customs Broker to his client.

37. In the present case, while the material on record clearly establishes that the Appellant filed the Shipping Bill in the name of Deepnidhi without its authorisation and failed to discharge his obligations under Regulations 10(a), 10(d) and 10(n), the Impugned Order does not identify any particular information imparted by the Appellant to a client which was incorrect and in respect of which the requisite due diligence was not exercised. The finding of violation of Regulation 10(e), therefore, cannot be independently sustained on the reasoning contained in the Impugned Order. This, however, does not affect the findings under Regulations 10(a), 10(d) and 10(n), which are independently supported by the material on record and are sufficient, when read with the Appellant's admitted conduct in parting with the use of his licence and dongle for consideration, to sustain the disciplinary action.

38. The Supreme Court in ***K.M. Ganatra*** *(supra)*, has emphasised the responsibility attached to a Customs Broker and the requirement that the obligations prescribed under the applicable Regulations be discharged with due diligence. The Customs Broker occupies a position of responsibility in the customs clearance process and is consequently required to discharge the obligations prescribed under

the applicable Regulations. The Appellant's conduct, particularly his admitted parting with the use of his licence and dongle for consideration and his filing of the Shipping Bill in the name of an exporter without its authorisation, falls short of that standard.

39. Having upheld the findings of violation, the next question is whether the punishment imposed upon the Appellant calls for interference. The Commissioner has revoked the Customs Broker licence, forfeited the security deposit of Rs.75,000/- and imposed a penalty of Rs.50,000/-. The question of proportionality must necessarily be examined having regard to the nature and cumulative effect of the violations established against the Appellant.

40. In the present case, the violation is not confined to a solitary deficiency in documentation. The Appellant admittedly permitted his licence and dongle to be used by Shri Devender Kumar for consideration of Rs.10,000/- per month. In addition, the Shipping Bill relating to the consignment was filed in the name of Deepnidhi without obtaining any authorisation from that entity. The transaction further concerned an attempted export of approximately 1,158 kilograms of Red Sanders, which, in the absence of the requisite permission, was treated as prohibited goods. These circumstances materially aggravate the nature of the regulatory breaches committed by the Appellant.

41. The reliance placed by the Appellant upon ***Nitco Logistics*** *(supra)* does not advance his case. It is correct that proportionality is relevant while examining the punishment imposed upon a Customs

Broker and that revocation, being a serious consequence, must bear a reasonable relationship to the gravity of the infraction. However, the proportionality assessment necessarily depends upon the nature of the misconduct and the presence or absence of aggravating and mitigating circumstances.

42. The facts of the present case are materially distinguishable. This is not a case where an employee independently misused the Customs Broker's credentials without the knowledge or authority of the licence holder. The Appellant himself admitted that he received Rs.10,000/- per month from Shri Devender Kumar and had lent his licence and dongle to him for consideration. The Appellant thus knowingly permitted another person to undertake Customs transactions using his credentials.

43. The aforesaid circumstance assumes particular significance because the Shipping Bill in question was thereafter filed in the name of an exporter which had neither engaged nor authorised the Appellant. The infraction therefore concerns not merely an isolated lapse in verification, but the Appellant's admitted parting with the use of his Customs Broker licence and dongle for consideration, coupled with the filing of a Shipping Bill in the name of an exporter without its authorisation in connection with an attempted export of prohibited Red Sanders.

44. In these circumstances, the Court is unable to hold that the Commissioner and the CESTAT failed to properly apply the principle of proportionality. The punishment cannot be examined by isolating

any individual lapse from the cumulative circumstances in which the violations occurred. Having regard to the admitted lending of the licence and dongle for consideration, the absence of authorisation from the named exporter, and the use of the Shipping Bill in an attempted export of prohibited goods, the revocation of the licence, forfeiture of the security deposit and imposition of penalty cannot be characterised as shockingly or manifestly disproportionate.

CONCLUSION:

45. In view of the foregoing discussion, this Court finds no perversity or error of law in the findings recorded by the CESTAT warranting interference under Section 130 of the Customs Act, 1962. No substantial question of law arises for consideration.

46. The present Appeal is, accordingly, dismissed. Pending applications shall stand closed.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

AUGUST 21, 2026
jai/pal