

Delhi High Court admits petition challenging validity of provisions of Finance Act, 2022 overruling Supreme Court ruling in Canon India

On 7 April 2022, the Delhi HC admitted a writ petition challenging validity of provisions of Finance Act, 2022, which overruled landmark Supreme Court (SC) ruling in Canon India.

The SC had held that the Directorate of Revenue Intelligence (DRI) officers are not empowered to issue show cause notice. Further, only the proper officer could issue such a notice as the Parliament has employed the article 'the' before the words proper officer not accidentally but with the intention to designate the proper officer who had assessed the goods at the time of clearance.

The Finance Act, 2022 has widened the scope of the term 'proper officer' under Customs law to include officers of DRI, audit and preventive in the class of officers by Customs.

The counsel of the petitioner contended that though it is open to the Legislature to amend the Act retrospectively to make the judgment of Court ineffective, but it cannot directly overrule, revise or override a judicial decision by mere declaration.

The HC found force in the argument of the petitioner and issued a notice to the Union of India. The matter has been listed on **14 November 2022**.

