

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

+ LPA 1368/2007 and CM No.16793/2007 (stay)

% Date of Decision: 7th February, 2008

COMMISSIONER OF CUSTOMS & ANR. Appellants
Through: Mr. Pradeep K. Bakshi, Advocate

versus

JASJEET SINGH MARWAHA & ANR. Respondents
Through: Ms. Jyoti Singh and Ms. Kimmi Brara
Marwaha, Advocates

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE REVA KHETRAPAL

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

% **07.02.2008**

: **DR. MUKUNDAKAM SHARMA, CJ. (ORAL)**

1. We have heard the learned counsel appearing for the parties on this appeal, which was filed by the appellants being aggrieved by the order dated 5th November, 2007 passed by the learned Single Judge allowing the writ petition of the respondents.
2. We have gone through the impugned order. The learned Single Judge in view of pendency of the appeal before the Commissioner of Customs (Appeals) under Section 128 of the Act, that is, the Customs Act, made an observation that the appellant should not take any further action upon the impugned show cause

notice issued by the appellant and make any final order. It was also observed by the learned Single Judge that the continuation and resumption of the proceedings based on the show cause notice would be guided by the final order of the Tribunal. The said order of the Commissioner of Appeals has since been passed and communicated, a copy of which is placed on our record. A perusal of the said order indicates that the order has been passed partly in favour of the respondents and also partly in favour of the appellant.

3. Since the appellate authority has now disposed of the aforesaid appeal, we are of the considered opinion that it shall be open to the respondents now to file a reply to the show cause notice, which was issued. It is also brought to our notice that other appeals filed by the respondents are pending before the appellate authority, being Appeal Nos.79/08 and 80/08. We are also informed that the said appeals are being listed for consideration before the appellate authority on 27th February, 2008. The appellate authority while taking a decision on the show cause notice issued would not only take into consideration the contentions of the respondents in the reply to be filed, but would also consider the effect of the order dated 31.12.2007 passed by the appellate authority and also the order, if any, passed by the appellate authority on 27th February, 2008 and give due weightage thereof. In case the respondents are still aggrieved by the final order to be passed by the appellate authority in terms of the aforesaid show cause notice, it shall be open to the respondents to take recourse to the remedy as available to the respondents in terms of the law immediately thereafter.

4. In terms of the aforesaid order, LPA 1368/2007 and CM No.16793/2007 stand disposed of. We make it clear that the order passed by the learned Single Judge was passed only for the purpose of deciding the aforesaid writ petition and

the observations made therein shall have no effect on the merit of the allegations made in the show cause notice issued by the appellants for cancellation of the licence.

CHIEF JUSTICE

REVA KHETRAPAL, J

FEBRUARY 07, 2008
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