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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CUSAA 47/2011

S GURBINDER PAL SINGH Appellant
Through Mr. Ashwin Vaish & Mr. Sanjeev
Manchanda, Advocates.

Versus

SECY MINISTRY OF FINANCE & ANR. Respondents
Through Mr. Himanshu Bajaj, Sr.
Standing Counsel for UOI.
Mr. Mukesh Anand, Advocate for
respondent No. 2.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE R.V.EASWAR

% **ORDER**
08.11.2011

CM No. 20177/2011

Exemption application is allowed, subject to all just
exceptions.

CUSAA No. 47/2011

The present appeal under Section 130 of the Customs Act,
1962 is directed against the order dated 27th September, 2011
passed by the Custom, Excise and Service Tax Appellate

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physical file have been compared and
the digital data is as per the physical
file and no page is missing.

Tribunal (tribunal, for short). By the said order, the tribunal after examining the income tax return filed by the appellant for the year 2009-10 has recorded that it does not see any reason to modify the direction for pre-deposit, which was issued and decided by the earlier order dated 17th March, 2011.

2. This order dated 17th March, 2011 was made subject matter of challenge in appeal CEAC No. 14/2011, which was dismissed as withdrawn on the statement made by the counsel for the appellant that he would approach the tribunal along with copy of the income tax returns to support the plea that the appellant was in fact suffering from financial crunch. In the order dated 3rd June, 2011, it is recorded that no such document was produced by the appellant before the tribunal when order dated 17th March, 2011 was passed. The Court while disposing of the appeal had also made it clear that it had not made any observation on the merits of the plea raised by the appellant and it was open to the tribunal to consider the plea in accordance with law.

3. Order dated 17th March, 2011 is a detailed order and has referred to the statement made by the seller on the question of under invoicing and has also referred to the allegations against the appellant that he was instrumental in forming three firms,

namely, M/s Sundram Overseas, M/s India Impex and M/s Ess Kay Impex and the concerned proprietors were mere name lenders.

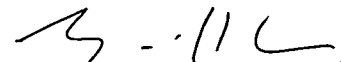
4. As per the assessment order, a demand of Rs.1,20,83,229/- has been raised on the ground of under valuation and an equal amount towards penalty has been imposed on the appellant.

5. We have also examined the reasons given by the tribunal in the order dated 27th September, 2011 and the earlier order dated 17th March, 2011 but do not think any substantial question of law arises for consideration. It may be noted that the appellant had merely filed copy of the opening page of the income tax return/acknowledgement without any documents, i.e., balance sheet, profit and loss accounts, etc. to show the assets available with the appellant. The tribunal has noted that the turnover of the appellant in the assessment year 2009-10 was Rs.29,00,000/-.

6. At this stage, learned counsel for the appellant submits that time for payment may be extended or installments may be fixed for payment of Rs.50,00,000/-. We accept the prayer and grant permission to the appellant to pay the aforesaid amount in four monthly installments of Rs.12,50,000/- each. The first

installment will be paid on or before 30th November, 2011 and
the last installment before 1st March, 2012.

The appeal is accordingly disposed of. No costs.


SANJIV KHANNA, J.


R.V. EASWAR, J.

NOVEMBER 08, 2011
VKR ✓

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of order dt 8/11/11)
(Pg 482, Vol-2)

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+ **CUSAA 47/2011**
S GURBINDER PAL SINGH Appellant
Through Mr. Ashwin Vaish, Mr. Sanjeev
Manchanda and Mr. Vinod Kumar, Advs.

versus

SECY MINISTRY OF FINANCE & ANR Respondents
Through Mr. Himanshu Bajaj, CGSC for R-1

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE R.V.EASWAR

ORDER

% **22.12.2011**

CM No.23378/2011

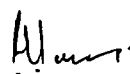
It is submitted by the applicant/appellant that first installment of Rs.12,50,000/- was paid on or before 30th November, 2011 and it is prayed that the time for payment of the balance installments may be extended. It is stated that the second installment of Rs.12,50,000/- will be paid on or before 30th January, 2012 and the next two installments of Rs.12,50,000/- each will be paid on or before 30th March, 2012 and 30th May, 2012. We accept the said prayer and extend the time.

Application is disposed of.

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It is made clear that no application for further extension of time will be entertained.


SANJIV KHANNA, J


R.V.EASWAR, J

DECEMBER 22, 2011/vld