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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 1119/2016

**VENKATESHWARA LEATHER EXPORTS THROUGH
ITS AUTHORIZED SIGNATORY**

..... Petitioner

Through: Mr Prosenjit Mondal, Advocate.

versus

COMMISSIONER OF CUSTOMS (EXPORTS) Respondent

Through: Mr Kamal Nijhawan, Senior Standing
Counsel with Mr Sumit Gaur, Junior Standing
Counsel.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE VIBHU BAKHRU

ORDER

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09.02.2016

CM No.4887/2016 in W.P.(C) 1119/2016

1. Allowed, subject to all just exceptions.
2. The applications stand disposed of.

W.P.(C) 1119/2016

3. In respect of the Petitioner, an Order-in-Original dated 5th February 2015 was passed by the Commissioner of Customs, permitting the withdrawal of goods in question on payment of redemption fine and levying penalty. The Petitioner then filed an appeal before the Commissioner of Customs (Appeals). By an order dated 17th June 2015, the Commissioner of Customs (Appeals) set aside the Order-in-Original. However, the Department went in

appeal before the Customs, Excise & Service Tax Appellate Tribunal ('CESTAT') which by an order dated 7th December 2015 stayed the said order dated 17th June 2015 of the Commissioner of Customs (Appeals).

4. The present writ petition has been filed by the Petitioner-Assessee seeking release of the goods pending the appeals before the CESTAT.

5. Learned counsel for the Petitioner states that the Petitioner is willing to furnish bank guarantees for the entire amount of redemption fine and penalty to enable the goods in question to be released to the Petitioner.

6. Learned counsel for the Department, on the other hand, submits that the Court may direct the CESTAT to expedite the hearing of the appeal.

7. Having considered the submissions of the learned counsels for the parties, and considering that the goods in question are finished leather lying seized for more than a year, the Court is of the view that the appropriate course would be to permit the Petitioner to furnish a bank guarantee for the entire amount of redemption fine and penalty and the goods be released to the Petitioner.

8. Accordingly, the writ petition is disposed of with the direction that upon the Petitioner furnishing a bank guarantee in favour of the Department, for the entire amount of redemption fine and penalty as ordered by the Order-in-Original dated 5th February 2015, the goods in question shall be released to the Petitioner. This would be subject to any further order that may be passed

by the CESTAT while disposing of the appeal of the Department.

9. The writ petition is disposed of in the above terms. *Dasti.*

S.MURALIDHAR, J

VIBHU BAKHRU, J

FEBRUARY 09, 2016
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