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

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**W.P.(C) 935/2016**

**SATHIK TANNING COMPANY THROUGH**

**ITS PROPRIETOR**

..... Petitioner

Through: Mr Umang Srivastava, Advocate.

versus

**COMMISSIONER OF CUSTOMS (EXPORTS) ..... Respondent**

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

**CORAM:**

**JUSTICE S.MURALIDHAR**

**JUSTICE VIBHU BAKHRU**

**ORDER**

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**03.02.2016**

**CM No.4065/2016**

1. Allowed, subject to all just exceptions.

2. The application stands disposed of.

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3. The Petitioner, which is a registered exporter, tendered a consignment of 'Goat Upper Finished Leather with Finishing Coat Colour Beige' for export through the Inland Container Depot, Tughlakabad, under S/B No. 6616345 dated 13th December 2014 along with the requisite documents. Prior thereto

the Petitioner submitted a sample to the Central Leather Research Institute (CLRI), Chennai who by a report dated 27th November 2014 opined that the sample conformed to the stipulation in Public Notice No. 21/2009-14 dated 1st December 2009 (the 'Public Notice'). Subsequently, a sample of the consignment was referred to CLRI officials from the Jalandhar office. By letter dated 9th January 2015 CLRI, Chennai forwarded a report stating that the sample did not satisfy the norms in the Public Notice. However, the report did not indicate which particular norm was not satisfied. On the basis of the said report, the Joint Commissioner adjudicated the case and by order dated 5th February 2015 confiscated all the export goods having declared FOB value of Rs. 39,35,841/1 but, permitted the Petitioner to withdraw the goods on payment of redemption fine of Rs. 9,83,000/-. A further penalty of Rs. 3,93,000/- was imposed under Section 114(iii) of the Customs Act, 1962.

4. Allowing the Petitioner's appeal, the Commissioner passed an order dated 17<sup>th</sup> June, 2015 quashing the aforesaid order of redemption fine and penalty and directed release of the consignment to the Petitioner. The Department filed an appeal in the CESTAT which by an order dated 7<sup>th</sup> December 2015 stayed the order dated 17<sup>th</sup> June 2015 of the Commissioner. The present writ petition by the Petitioner-Assessee seeks the release of the goods pending the disposal of the Department's appeal by the CESTAT.

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

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

6. Having considered the submissions of the learned counsel 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 for the goods be released to the Petitioner.

7. 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 5<sup>th</sup> 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.

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

**S.MURALIDHAR, J**

**VIBHU BAKHRU, J**

**FEBRUARY 03, 2016**  
**MK**