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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
23.
\+ **CUSAA 13/2016**

PRINCIPAL COMMISSIONER OF CUSTOM (IMPORT)
NEW DELHI ..... Appellant
Through: Mr. Rahul Kaushik, Senior Standing counsel with Mr. Bhavishya Sharma and Mr.Dhanesh Kumar, Advocates.

versus

SUCHITA AGGARWAL ..... Respondent
Through: Mr. V.V. Gautam with Mr. S.K. Gupta and Ms. Mahak Tanwar, Advocates.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R

% **05.04.2016**

CM No. 12615/2016 (for exemption)

1. Exemption allowed subject to all just exceptions.

CM No. 12616/2016 (for condonation of delay in re-filing the appeal)

2. For the reasons stated in the application, the delay in re-filing the appeal is condoned.

3. The application is disposed of.

CUSAA 13/2016 & CM No. 12614/2016 (for stay)

4. This appeal by the Department under Section 130 of the Customs Act,

1962 ('Act') is against an order dated 21st October 2015 of the Custom Excise and Service Tax Appellate Tribunal ('CESTAT') whereby the Respondent's appeal against the order-in-original dated 7th April 2015 passed by the Commissioner of Customs (Imports) was allowed.

5. The Respondent purchased an imported Toyota Land Cruiser diesel car from one Mr. Krishan Kant on 31st May 2008. Nearly five years later, the car was seized from her by the Department of Revenue Intelligence ('DRI') who were investigating into the import of high end luxury cars imported by Mr. Sumit Walia by allegedly misdeclaring them as new cars whereas they were sold and registered in the country of export prior to the export thereof. The suspicion also was that at the time of import, the said cars were under-invoiced, thus evading payment of customs duty.

6. The question before the CESTAT was whether the confiscation and imposition of redemption fine of Rs. 10 lakhs as well as the penalty of Rs. 10 lakhs under Section 112A of the Act and Rs. 5 lakhs under Section 114AA of the Act on the Respondent was justified in the facts and circumstances of the case. After analysing the impugned adjudication order as well as the other evidence on record, the CESTAT has come to a definite finding that the Respondent was a bonafide purchaser of the car and had no role in its importation.

7. Having been taken through the adjudication order as well as the impugned order of the CESTAT by the learned counsel for the Appellant, the Court is not persuaded to come to a different conclusion as far as the above finding is concerned.

8. No substantial question of law arises for determination by the Court. The appeal and the application are dismissed.

S. MURALIDHAR, J

VIBHU BAKHRU, J

APRIL 05, 2016

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