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IN THE HIGH COURT OF DELHI AT NEW DELHI

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SERTA 8/2016, CM APPL.10986/2016

ANSHITA CHAWLA & RAMESH CHAWLA

..... Appellant

Through: Dr. G.K. Sarkar, Ms. Malabika Sarkar and Mr.
Prashant Srivastava, Advocates.

versus

COMMISSIONER OF SERVICE TAX, DELHI

..... Respondent

Through: Mr. Pramod Kr. Rai, Sr. Standing Counsel,
CBEC.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

07.09.2016

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The appellant is aggrieved by the fact that its appeal was dismissed by the CESTAT even though the Tribunal has set down only the application for exemption from payment of duty (a pre-condition for hearing of the appeal) for hearing.

We have considered the materials on record as well as the order and are of the opinion that in the peculiar circumstances of the case given the application alone was listed for hearing the CESTAT should not have dealt with the merit without proper notice that it would do so. Consequently, the impugned order is hereby set aside and the appeal is accordingly restore on the file of the CESTAT which shall proceed to dispose it of on merits after duly hearing all the parties.

The appeal is allowed in the above terms.

S. RAVINDRA BHAT, J

SEPTEMBER 07, 2016/vikas/

DEEPA SHARMA, J