$~
* IN THE HIGH COURT OF DELHI AT NEW DELHI
7.
\+ CUSAA 18/2016

COMMISSIONER OF CUSTOMS (GENERAL) ..... Appellant
Through: Mr. Satish Kumar, Senior Standing counsel.

versus

ATHARVA GLOBAL LOGISTICS ..... Respondent

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE VIBHU BAKHRU

<u>O R D E R</u>
% **31.05.2016**

<u>CM No. 21899/2016 (for exemption)</u>

1. Exemption allowed subject to all just exceptions.

<u>CUSAA 18/2016 & CM No. 21898/2016 (for stay)</u>

2. The challenge in this appeal by the Department is to an order dated 23rd October 2015 passed by the Customs, Excise & Service Tax Appellate Tribunal ('CESTAT') in Appeal No. C/A/53437/2015-CU[DB] filed by the Respondent whereby an order dated 13th February 2015 passed by the Commissioner of Customs (General), New Delhi revoking the Custom Broker ('CB') licence of the Respondent has been set aside.

3. The admitted facts are that the Directorate of Revenue Intelligence ('DRI') submitted a report on 7th October 2014 to the Commissioner of

Customs, Mumbai informing it of the role of the Respondent in allegedly carrying out importation of components of DVD players using various IECs at highly undervalued price. Acting on the above report of the DRI, the Commissioner of Customs (General) passed an order on 16th December 2013 suspending the Respondent's CB Licence, in exercise of the powers under the Customs Brokers Licensing Regulations, 2013 ('CBLR 2013'). The report of the DRI was forwarded to the New Delhi Customs Commissionerate on 4th November 2013 for necessary action.

4. A show cause notice ('SCN') was issued by the Respondent on 17th June 2014 asking it to show cause why its CB licence should not be cancelled. The above SCN was adjudicated and an order passed by the Commissioner of Customs (General), New Delhi on 13th February 2015 exercising the powers under Regulation 18 read with Regulation 20 of the CBLR 2013 revoking the CB licence of the Respondent. It is the above order that has been set aside by the CESTAT in the impugned order.

5. Learned counsel for the Appellant sought to urge that notwithstanding the fact that the SCN dated 17th June 2014 was not issued within 90 days of the receipt of the offence report as mandated by the Regulation 20 (1) of the CBLR 2013, the period during which the suspension of the CB licence was operational and the time taken in forwarding the DRI's report to the New Delhi Commissionerate should be excluded for the purpose of computation of the period of limitation.

6. The Court is unable to agree with the above submission. As already held by this Court in several orders including the recent order dated 24th May

2016 in W.P.(C) No. 1734 of 2016 [***HLPL Global Logistics Pvt. Ltd. v. The Commissioner of Customs (General)***] the time limit specified in Regulation 20(1) of the CBLR 2013 is sacrosanct, i.e., the SCN had to be issued to the Petitioner within ninety days from the date of the receipt of the offence report. It is plain that the SCN dated 17th June 2014 was issued for the purpose of revocation of the CB licence of the Respondent and was not issued within 90 days of the date of receipt of the offence report which admittedly in this case is 7th October 2013. The question of exclusion of the period during which the suspension of the licence continued is not contemplated in Regulation 20 (1) of the CBLR 2013. If there are no grounds for revocation of licence then obviously the suspension cannot be maintained. Consequently, there is no legal infirmity in the impugned order of the CESTAT which calls for interference.

7. No substantial question of law arises for determination by the Court.

8. The appeal and the application are dismissed.

S. MURALIDHAR, J

VIBHU BAKHRU, J

MAY 31, 2016

dn