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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 5369/2016

M/S AGRO IMPEX & ORS.

..... Petitioners

Through: Mr. Navneet Panwar, Advocate.

versus

UNION OF INDIA, & ORS.

..... Respondents

Through: Mr. Sanjib Kumar Mohanty, Senior
Panel Contract Govt. Counsel with Mr. Vardana
Anand, Advocates.

Mr Satish Aggarwala, Advocate for DRI.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE VIBHU BAKHRU

ORDER

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01.06.2016

CM 22389/2016 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 5369/2016 & CM 22388/2016 (stay)

2. The challenge in this petition is to the show cause notice ('SCN') dated 8th June, 2010 issued by the Additional Director, Directorate of Revenue Intelligence, ('DRI'), Delhi Zone who according to the Petitioner is not a 'proper officer' within the meaning of Section 2 (34) of the Customs Act, 1962 ('Act') and therefore has no jurisdiction to issue the SCN or adjudicate it. The Petitioner also challenges the subsequent Order-in-Original dated 24th February 2016 passed by the Commissioner, Customs (Preventive). Reliance is placed on the recent judgment dated 3rd May, 2016 passed by

this Court in W.P. (C) No. 441 of 2013 (*Mangli Impex Ltd. v. Union of India*).

3. It is the admitted position that the Petitioners have an alternate remedy of an appeal before the Customs, Excise and Service Tax Appellate Tribunal ('CESTAT') under the Customs Act, 1962. It will be open to the Petitioners to avail the alternate remedy and bring to the notice of the CESTAT the judgment in *Mangli Impex Ltd. v. Union of India* (*supra*). The CESTAT will consider the appeal and pass an appropriate order in accordance with law.

4. The petition and the application are disposed of with the above observations. Order *dasti*.

S.MURALIDHAR, J

VIBHU BAKHRU, J

JUNE 01, 2016
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