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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) No.5329/2016 & CM No.22200/2016 (for interim relief).
M/S WELLDONE EXIM PVT LTD Petitioner
Through: Dr. G.K. Sarkar, Ms. Malabika Sarkar
and Mr. Prashant Srivastava, Advs.
Versus

UNION OF INDIA AND ORS Respondents
Through: Mr. Anurag Ahluwalia, CGSC for
UOI.
Mr. Hashmat Nabi, Adv. for R-2&3.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **02.06.2016**

CM No.22201/2016 (for exemption).

1. Allowed, subject to just exceptions.
2. The application stands disposed of.

W.P.(C) No.5329/2016 & CM No.22200/2016 (for interim relief).

3. The petition impugns the decision dated 30th March, 2016 taken by the respondents no.2&3 Punjab National Bank (Bank) in pursuance to the orders dated 3rd March, 2016 and 14th March, 2016 in W.P.(C) No.1230/2016 earlier preferred by the petitioner.
4. W.P.(C) No.1230/2016 was preferred impugning the cancellation by the respondents no.2&3 Bank of the Bank Realisation Certificates (BRCs) certifying the receipt of proceeds of exports effected by the petitioner and on the basis of which BRCs the petitioner had also obtained export benefits from the governmental authorities. It was then the contention of the petitioner that no opportunity of hearing had been given to the petitioner

before effecting the cancellation of BRCs. Vide orders dated 3rd March, 2016 and 14th March, 2016, the petition was disposed of by granting an opportunity of hearing to be given and by further providing that if the petitioner remains aggrieved, shall have remedies in accordance with law.

5. The respondents no.2&3 Bank have now vide impugned decision dated 30th March, 2016 reiterated the cancellation, reasoning *inter alia* that the export realisations received by the petitioner were not backed by Tripartite Agreement and the relevant declaration about third party remittance in the Export Declaration Form had not been provided by the petitioner.

6. The petitioner controverts the said findings of facts.

7. I have enquired from the counsel for the petitioner whether not the said question would entail disputed questions of fact and how can the same be adjudicated in writ jurisdiction.

8. The counsel for the petitioner first stated that the said adjudication is to be done by the Customs Authorities.

9. Option was given to the counsel for the petitioner of disposal of this writ petition by providing that the fate of the BRCs will be determined by the adjudication by the Customs Authorities.

10. The counsel for the petitioner then withdraws the petition with liberty to follow the appropriate remedies including of filing a suit.

11. Dismissed as withdrawn with liberty aforesaid.

No costs.

RAJIV SAHAI ENDLAW, J

JUNE 02, 2016

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W.P.(C) No.5329/2016