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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 6667/2016**

HINDUSTAN INDUSTRIAL PRODUCTS
PROPRIETOR ANAND KUMAR GUPTA ..... Petitioner
Through: Mr. Pradeep Jain, Advocate

versus

DIRECTORATE GENERAL OF CENTRAL
EXCISE INTELLIGENCE & ANR. ..... Respondents
Through: Mr. Satish Aggarwala, Advocate

**And**

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\+ **W.P.(C) 6668/2016**

INDIAN PERFUMES PVT. LTD ..... Petitioner
Through: Mr. Pradeep Jain, Advocate

versus

DIRECTORATE GENERAL OF CENTRAL
EXCISE INTELLIGENCE, & ANR. ..... Respondents
Through: Mr. Satish Aggarwala, Advocate for the DGCEI and Mr. Sanjeev Narula, Advocate for Respondent No.2

**CORAM:**
**JUSTICE S.MURALIDHAR**
**JUSTICE NAJMI WAZIRI**

**ORDER**

% **01.08.2016**

**CM APPL. 27300/2016 (Exemption) in WP(C) 6667/2016**
**CM APPL. 27301/2016 (Exemption) in WP(C) 6668/2016**

1. Allowed, subject to all just exceptions.

**WP(C) 6667/2016 & WP(C) 6668/2016**

2. Notice. Mr. Satish Aggarwala, Advocate accepts notice for the DGCEI (Respondent No.1) and Mr. Sanjeev Narula, Advocate accepts notice for the Central Excise Department (Respondent No.2).

3. The short point involved in these petitions concerns the conditions imposed by the Respondent, Directorate General of Central Excise Intelligence ('DGCEI'), for the release of goods seized vide the *panchnama* dated 29th January 2016. By letters dated 9th February 2016 addressed to the Commissioner of Central Excise, DGCEI, the Petitioners had applied for the provisional release of the seized goods. By a letter dated 25th February, 2016 the DGCEI communicated to the Commissioner of Central Excise, Lucknow Zone about the following specific conditions for the release of goods:

> "In this regard, I am directed to request you to provisionally release the goods, plant and machinery seized from both the above mentioned units, subject to following conditions:
>
> (i) Bond for full assessment value.
>
> (ii) Bank guarantee/ cash security of 25% of the assessable value of goods, plant & machinery;
>
> This issues with the approval of Pr. Additional Director General, CEI, New Delhi."

4. Mr. Pradeep Jain, learned counsel for the Petitioners, points out that the goods in question were seized way back on 3rd November, 2015. The Petitioners had withdrawn the writ petitions filed earlier in the expectation of orders for provisional release being passed. He submits that while the

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Petitioners have no difficulty in furnishing a bond for the full assessable value of the goods, they are prepared to pay the full duty without prejudice to their rights and contentions in the further proceedings if any. Therefore, there may be no occasion to require them to furnish a Bank Guarantee (BG) for 25% of the assessable value of goods, plant and machinery. In any event the condition for furnishing a BG for 25% of the value of the goods (as against the differential duty) is contrary to several orders passed by the Court including the one passed in ***Navshakti Industries P. Ltd. v. Commissioner of Customs 2011 (267) ELT 483 (Del)*** as modified by the Supreme Court in ***Commissioner of Customs v. Navshakti Industries 2011(269) ELT (A 146) (SC)***. The above orders have been followed by this Court in its order dated 22nd February, 2016 in W.P.(C) 1536/2016 ***(Balaji Solutions Private Limited v. Union of India)***. The conditions imposed in terms of the above orders are the furnishing of a bond for 100% of the value of the goods and security in the form of a BG for 30% of the differential duty, with an auto renewal clause and as per RBI guidelines.

5. In view of the above, it is directed that the Petitioner shall be permitted to provisional release of the goods upon furnishing a bond for 100% of the full assessment value and, in view of the statement of the counsel for the Petitioners, upon payment of the full duty, without prejudice to their rights and contentions in the further proceedings if any.

6. Mr. Narula will communicate this order forthwith to the Respondent No. 2 so that there is no further unnecessary delay in the provisional release of the goods to the Petitioners subject to the above modified conditions.

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7. In the event of non-compliance with this order, it will be open to the Petitioners to apply to the Court for directions.

8. The petitions are disposed of in the above terms. Order *dasti*.

**S.MURALIDHAR, J**

**NAJMI WAZIRI, J**

**AUGUST 01, 2016**
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