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

\+ CUSAA 23/2016 & C.M.No.31107/2016

NPT PAPERS PVT. LTD ..... Appellant

Through Mr.Tarun Chawla, Adv.

versus

PRINCIPAL COMMISSIONER OF CUSTOMS ICD (IMPORT), TUGHLAKABAD, NEW DELHI

..... Respondent

Through Mr.Sanjeev Narula, Sr.Standing counsel with Mr. Abhishek Ghai, Adv.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

<u>O R D E R</u>

% **09.09.2016**

The appellant's grievance in this proceeding is in respect of an order of the Customs Excise and Service Tax Appellate Tribunal (hereinafter referred to as "CESTAT"), which rejected its appeal as being not maintainable. The CESTAT was of the opinion that the letter/communication imposing condition for provisional clearance of the case did not amount to a quasi-judicial order.

At the outset, this court notices that the CESTAT appears to have completely overlooked that the order of provisional release was appealed against and the Commissioner rejected it on 09.10.2015. In these circumstances, the opinion of the CESTAT is completely untenable.

Ordinarily, this Court would have remitted the matter for consideration by the CESTAT. However, learned counsel for the both the parties are of the opinion that the nature of the dispute is narrow and that it would be in the interest of Revenue as well as the appellant if this court makes appropriate orders.

The order for provisional release of goods required the appellant to furnish personal bond and in addition, deposit the differential duty (₹30 lakhs) and further a bank guarantee for ₹9 lakhs, being 30% of the differential duty tentatively determined by the court.

Having regard to the overall circumstances, it is hereby directed that the condition for release is modified to the extent that instead of the entire differential duty the appellant be directed to deposit ₹15 lakhs. The other conditions would, however, remain undisturbed. The adjudicating officer should conclude the hearing at his earliest convenience and pass final orders.

The appeal is allowed in the above terms.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

SEPTEMBER 09, 2016

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