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

+ **W.P.(C) 11833/2016 & CM No.46661/2016**

ALIP KUMAR DAS

..... Petitioner

Versus

UNION OF INDIA & ANR.

..... Respondents

+ **W.P.(C) 11834/2016 & CM No.46664/2016**

WHITE SWAN INC

..... Petitioner

Versus

UNION OF INDIA & ANR.

..... Respondent

+ **W.P.(C) 11835/2016 & CM No.46665/2016**

DHARAMPAL

..... Petitioner

Versus

UNION OF INDIA & ANR.

..... Respondents

Through:

Mr. C. Hari Shankar, Senior Advocate  
with Mr. Pushkar Kumar Singh,  
Advocate for Petitioners.  
Mr. Harpreet Singh, Senior Standing  
Counsel for Respondent No.2.

**CORAM:**

**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**

**HON'BLE MR. JUSTICE NAJMI WAZIRI**

**ORDER**

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**19.12.2016**

1. Issue notice. Mr. Harpreet Singh, Advocate accepts notice on behalf of respondent No.2.
2. The petitioner's grievance in these proceedings with respect to the pre-deposit of a penalty amount, during the pendency of the appeal before the Commissioner of Customs (Appeals), is that the Order-in-Original cast wide liability and implicates them in multiple capacities. The order of this Court in *W.P.(C) No.11264/2016 (Durga Apparels Pvt. Ltd. Vs. Union of India &*

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*Anr.* dated 28.11.2016) is relied upon to say that a similar order may be made in the present case.

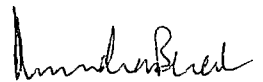
3. We have considered the submissions made on behalf of the parties by their counsels.

4. In *Durga Apparels's* case (*supra*), the Court had directed the Appellate Commissioner to proceed with the merits provided the entities ensure that the principal deposit amount mandated i.e. 7½ % in respect of the basic duty drawback element regardless of the penalty of like amount was paid by each of the five entities. As far as individual liability was concerned, the specific amounts ignoring the joint and several liabilities with respect to individuals was directed, subject to which their appeals were to be re-considered.

5. Following the *Durga Apparels's* case (*supra*), the Court hereby permits the deposit of 7½ % of the penalty element, by the individual appellants i.e. Shri Alip Kumar Das [W.P.(C) No.11833/2016] and Shri Dharampal [W.P.(C) No.11835/2016]. In the case of White Swan Inc [W.P.(C) No.11834/2016], the concerned proprietor shall pay the mandatory pre-deposit amount – as required in *Durga Apparels's* case (*supra*).

6. The writ petition is disposed off in the above terms.

7. A copy of this order be given *dasti* to the parties.

  
**S. RAVINDRA BHAT, J.**

  
**NAJMI WAZIRI, J.**

**DECEMBER 19, 2016/sb**