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

\+ W.P.(C) 6605/2015

PANKAJ LAKHANI ..... Petitioner

Through: Ms. Sunaina Pasricha, proxy counsel for Mr. Priyadarshi Manish, Adv.

versus

THE COMMISSIONER OF CUSTOMS (PREVANTIVE) & ANR. ..... Respondents

Through: Mr. Harpreet Singh, Adv. for R-1.
Mr. Satish Aggarwala and Mr. Amish Aggarwala, Advs. for R-2.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAJMI WAZIRI

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

% **28.11.2016**

The petitioner had sought unconditional release of goods on the ground that since the show cause notice was not issued under Section 110 of the Income Tax Act, 1961 (in short the Act) it was entitled to such relief. The petitioner relied upon ***Purushottam Jajodia vs. Directorate of Revenue Intelligence, New Delhi Directorate of Revenue Intelligence, New Delhi, 2014 (307) ELT 837 (Del)***. On 11.08.2015 it was pointed out that aforesaid judgment has been carried in appeal and was stayed by the Supreme Court on 11.09.2014 in SLP(C) No. 24478/2014. It was recorded on that date that the stay continued to subsist. Apparently, the petitioner was aggrieved by the said order and approached the Supreme Court which by its order in

SLP(C) No. 32486/2015 directed as follows:

> *".... Leave granted.*
>
> *The appellant shall be entitled to refund of 50% of the seized amount and the watches seized by the respondent within four weeks hence, subject to an undertaking filed before the Registry of this Court within ten days that if the appeal fails, the appellant shall make good the dues along with interest.*
>
> *Tag with Civil Appeal No. 3122 of 2015...."*

It is evident, therefore, that the order of the Supreme Court in a sense superseded the decision of this Court – the order of this Court albeit made as an interim measure, inasmuch as the petitioner is entitled to 50% refund of the seized amount and the watches seized by the respondents.

In this view of the matter we are of the opinion that the parties would be ultimately bound by the final decision of the Supreme Court. The writ petition is, accordingly, disposed off.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

NOVEMBER 28, 2016/kk