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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **W.P.(C) 229/2016**

BURLEIGH INTERNATIONAL ..... Petitioner
Through: Mrs. Anjali J. Manish with Mr. Rahul Ranjan, Advocates.

versus

THE COMMISSIONER OF CUSTOMS (IMPORT) ..... Respondent
Through: Mr. Kamal Nijhawan, Senior Standing counsel with Mr. R. Ashok and Mr. Sumit Gaur, Advocates.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R
% **30.05.2016**

1. Pursuant to the previous order dated 6th May 2016 Mr. Nijhawan, learned Senior standing counsel for the Respondent produced a copy of the register which shows that the order-in-original dated 14th May 2015, revoking the Petitioner's Custom's Broker (CB) licence, was despatched to the Petitioner at its previous address, i.e., E-16, Paryavaran Complex, IGNOU Road, Saket, New Delhi – 110 030. The Petitioner's case is that it never received the above order. The Petitioner contends that the Department was aware of its changed address as is evident from the fact that all other communications and orders even earlier to the above order were sent to and received at the changed address.

2. Notwithstanding the above contention, during the course of today's

hearing, Mrs. Anjali J. Manish, learned counsel for the Petitioner, drew the attention of the Court to the fact that the show-cause notice ('SCN') which led to the passing of the above impugned order was issued to the Petitioner only on 17th June 2014. The said SCN was issued under the Customs Brokers Licencing Regulations 2013 ('CBLR 2013'). The contention is that the said SCN was issued beyond the mandatory period of 90 days from the date of the receipt of the offence report in terms of Regulation 20 (1) of the CBLR 2013.

3. It is pointed out that in the present case there is no reference in the said SCN dated 17th June 2014 to any receipt of an offence report. Accordingly, the SCN dated 25th October 2013 issued under the Customs Act, 1962 ('CA') has to be treated as the date of receipt of the offence report for the purposes of Regulation 20 (1) of the CBLR 2013. This is not disputed by Mr. Kamal Nijhawan, Senior Standing counsel for the Customs Department.

4. In that event, it is plain that the SCN issued on 17th June 2014 under the CBLR 2013 was well beyond the period of 90 days from 25th October 2013. In light of the legal position explained by this Court in ***HLPL Global Logistics Pvt. Ltd. v. The Commissioner of Customs (General)*** (decision dated 24th May 2016 in W.P. (C) No. 1734 of 2016 the time limit as prescribed in Regulation 20 (1) of CBLR 2013 is sacrosanct and the failure to adhere to the said time limit would invalidate any action taken against the Petitioner in terms of Regulation 20 (1) of the CBLR 2013.

5. In that view of the matter, the impugned order dated 14th May 2015 passed by the Commissioner of Customs (General) revoking the licence of the Petitioner and forfeiting the whole amount of the bank guarantee

furnished is hereby set aside.

6. The petition is allowed in the above terms but with no order as to costs.

S.MURALIDHAR, J

VIBHU BAKHRU, J

MAY 30, 2016
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