

CWP No. 4874 of 2017

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 4874 of 2017
Date of Decision : 11.05.2017**

M/s Oster Knit Pvt. Ltd.

...Petitioners

Versus

Union of India and others

...Respondents

CORAM: ***HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL***

Present: Mr. Jagmohan Bansal, Advocate for the petitioners.

Mr. Anshuman Chopra, Advocate for the respondents.

S.J. VAZIFDAR, C.J.(Oral)

Mr. Bansal, learned counsel for the petitioners does not press this writ petition stating that he will pursue his remedies before the authorities under the Act. His only request is that the assessment be done by the Commissioner. There are no allegations against the Additional Commissioner whatsoever. He, however, states that as the Additional Commissioner is a party to this writ petition i.e. respondent No. 2 and an affidavit in reply has been filed, it may be difficult for the Additional Commissioner to take a different view. He, therefore, requests that the assessment be done by the Commissioner.

We agree that there are no allegations whatsoever against the Additional Commissioner. The Additional Commissioner would in all probability be willing to change his mind, if necessary, as he must. A

particular stand in the affidavit in reply having been taken does not mandate his continuing with that stand while passing the assessment order. We are, however, inclined to accept Mr. Bansal's request that the Commissioner passes the assessment order as this would save the Additional Commissioner of any embarrassment.

In the circumstances, the writ petition is disposed of with liberty to the petitioners to avail the alternate remedy under the Act. The assessment proceedings, however, shall be heard by the Commissioner of Customs. The petitioners will in the first instance appear before the Commissioner concerned at 11.00 A.M. on 16.05.2017 and thereafter as directed by the Commissioner. The petitioners are at liberty to seek an early hearing before the Commissioner. It will also be open to the petitioners to make any application for provisional assessment and release of the goods, which would be considered in accordance with law.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(ANUPINDER SINGH GREWAL)
JUDGE

11.05.2017
kanchan

<i>Whether speaking/reasoned?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>