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

+ **CUSAA 18/2017 & CM Nos.12304-05/2017**

DEE JAY ENTERPRISES THROUGH: ITS PROPRIETOR SHRI
SANJAY SAHNI Appellant

Through: Mr. Rajesh Yadav, Ms. Ruchira Arora
and Mr.Dhanajay Mehlawat,
Advocates.

Versus

DY. COMMISSIONER OF CUSTOMS (GR. VII) Respondent

Through: Mr. Sanjeev Narula and Mr. Abhishek
Ghai, Advocates.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **28.03.2017**

CM No.12305/2017 (for exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed off.

CUSAA 18/2017 & CM No.12304/2017

3. The appellant is aggrieved by the order of the CESTAT, which reduced the penalty amount to ₹10,000/- [under Section 112 of the Customs Act, 1962(for short 'the Act')] and waived a penalty under Section 117 of the Act. It is urged that the recovery made for not fulfilling the export commitment under the EPCG Scheme was hopelessly belated and that the Revenue could have well sought recourse to other mechanism such as

encashment of bank guarantee furnished to it or enforce the bond under Section 143 of the Customs Act. It is pointed out on behalf of the Revenue that there is in fact no limitation so far as such dues are concerned – especially if they relate to the export demand and the concession or dues exempt goods are concerned, reliance is placed upon ***Commissioner of Custosm (Import), Mumbai Vs. M/s Jagdish Cancer & Research Center, (2001) 6 SCC 483.***

4. This Court has considered the submissions and is unable to appreciate or discern any question of law. The Parliament has designedly left the issue of any limitation, upon recovery of its dues, open depending on the exigencies of the circumstances. No substantial question of law arises in view of the Supreme Court’s judgment.

5. The appeal alongwith pending application is accordingly dismissed. Needless to add, it is open to the appellant to appropriate the bank guarantee/have it cancelled, subject to fulfilment of the Revenue’s dues.

S. RAVINDRA BHAT, J.

NAJMI WAZIRI, J.

MARCH 28, 2017

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