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

+ **W.P.(C) 4438/2017 & CM No. 19387/2017**

BHARAT SANCHAR NIGAM LIMITED Petitioner

Through: Mr. R.K. Sanghi & Mr. Satyendra
Kumar, Advocates

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Anil Dabas, Advocate for
Respondent No.1
Mr. Aditya Singla, Senior Standing
Counsel for Respondent No.2
Mr. Satish Aggarwala, Advocate for
DRI
Mr. Amit Bansal & Mr. Akhil
Kulshreshta, Advocates for
Respondent No.3

**CORAM: JUSTICE S.MURALIDHAR
JUSTICE CHANDER SHEKHAR**

ORDER

% **25.05.2017**

1. Mr. R.K. Sanghi, learned counsel for the Petitioner has placed before the Court a copy of Circular No.1053/02/2017-CX issued by the Central Board of Excise & Customs ('CBEC') dated 10th March, 2017, which is titled: 'Master Circular on Show Cause Notice, Adjudication and Recovery –reg.' Para 9.3 of the said Circular deals with 'Call-Book Cases.' These are cases "which cannot be adjudicated immediately due to certain specified reasons and adjudication is to be kept in abeyance." One of the categories mentioned therein is: "in which the Department has gone in appeal to the appropriate

authority.”

2. In the present case, it is not in dispute that against the judgment of this Court in ***Mangli Impex Ltd. v. Union of India 2016 (335) ELT 605(Del)***, which was a batch of cases, which included WP(C) No. 225/2014 filed by the Petitioner herein, SLPs have been filed in the Supreme Court in which leave has been granted and a stay has been ordered of the said judgment dated 3rd May, 2016 of this Court. Therefore, the Petitioner’s case falls within Clause 1 of para 9.3 of the Master Circular.

3. The provocation for the Petitioner to file the present petition is that soon after the judgment of this Court, Notification No. 61-2016-Customs(NT) dated 4th May, 2016 was issued by the Department of Revenue empowering the officer of the Directorate of Revenue Intelligence (‘DRI’) to adjudicate the Show Cause Notice (‘SCN’) issued to the Petitioner on 3rd April, 2013. This was done purportedly to overcome the defects pointed out by this Court in its judgment in ***Mangli Impex Ltd. v. Union of India(supra)***. Mr. Sanghi states that this notification is also under challenge in the present writ petition.

4. The Court is of the view that since, admittedly, the Petitioner’s SCN would fall within the ambit of ‘Call Book Cases’ under para 9.3 of the Master Circular, there is no urgency at this stage to consider the plea of the Petitioner. It would have to await the outcome of the appeals filed by the Union of India in the Supreme Court against the judgment of this Court in ***Mangli Impex Ltd. v. Union of India (supra)***. As far as challenge to the Notification dated 4th May, 2016 is concerned, it will also have to await the

outcome of the decision in *Mangli Impex Ltd. v. Union of India* (*supra*). Depending on the outcome of the appeal in the Supreme Court against the decision of this Court in *Mangli Impex Ltd. v. Union of India* (*supra*) the question of considering the challenge to the Notification dated 4th May, 2016 might arise at that stage.

5. Mr. Sanghi also pointed that the adjudicating authority has required the Petitioner to appear in the adjudicating proceedings notwithstanding that the case had to be treated as a ‘Call-Book Case’ in terms of the Master Circular. It will be open to the Petitioner to draw the attention of the adjudicating authority to the Master Circular dated 10th March, 2017 and pray for keeping the adjudication proceedings in abeyance in terms thereof.

6. As regards the challenge to the Notification dated 4th May 2016 is concerned, the Petitioner is permitted to revive the challenge depending on the outcome of the appeals filed by the Union of India in the Supreme Court against the judgment of this Court in *Mangli Impex Ltd. v. Union of India* (*supra*).

7. The petition is disposed of in the above terms. CM No. 19387/2017 is also disposed of. *Dasti* under the signature of the Court Master.

S.MURALIDHAR, J

CHANDER SHEKHAR, J

MAY 25, 2017/tp