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

59 to 64

\+ **CEAC 10/2017**

HIMGIRI PLASTICS ..... Petitioner

Through: Dr. G.K. Sarkar, Ms Malabika Sarkar, Mr Prashant Srivastava and Mr Dhruv Seth, Advocates

versus

COMMISSIONER OF CENTRAL EXCISE, DELHI-II ..... Respondent

Through: Mr Harpreet Singh, Senior Standing Counsel

\+ **CEAC 11/2017**

RIMMI TALWAR ..... Petitioner

Through: Dr. G.K. Sarkar, Ms Malabika Sarkar, Mr Prashant Srivastava and Mr Dhruv Seth, Advocates

versus

COMMISSIONER OF CENTRAL EXCISE, DELHI – II ..... Respondent

Through: Mr Harpreet Singh, Senior Standing Counsel

\+ **CEAC 12/2017**

JOGINDER KUMAR TALWAR ..... Petitioner

Through: Dr. G.K. Sarkar, Ms Malabika Sarkar, Mr Prashant Srivastava and Mr Dhruv Seth, Advocates

versus

COMMISSIONER OF CENTRAL EXCISE, DELHI – II ..... Respondent

Through: Mr Harpreet Singh, Senior Standing Counsel

\+ **CEAC 13/2017**

HIMALAYAN POLYCOLOURS CO. ..... Petitioner

Through: Dr. G.K. Sarkar, Ms Malabika Sarkar, Mr Prashant Srivastava and Mr Dhruv Seth, Advocates

versus

COMMISSIONER OF CENTRAL EXCISE – DELHI-II ..... Respondent

Through: Mr Harpreet Singh, Senior Standing Counsel

\+ **CEAC 14/2017**

PUNEET TALWAR ..... Petitioner

Through: Dr. G.K. Sarkar, Ms Malabika Sarkar, Mr Prashant Srivastava and Mr Dhruv Seth, Advocates

versus

COMMISSIONER OF CENTRAL EXCISE, DELHI – II ..... Respondent

Through: Mr Harpreet Singh, Senior Standing Counsel

\+ **CEAC 15/2017**

SANJEEV TALWAR ..... Petitioner

Through: Dr. G.K. Sarkar, Ms Malabika Sarkar, Mr Prashant Srivastava and Mr Dhruv Seth, Advocates

versus

COMMISSIONER OF CENTRAL EXCISE, DELHI - II

..... Respondent

Through: Mr Harpreet Singh, Senior Standing Counsel

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE CHANDER SHEKHAR

ORDER

% **29.05.2017**

CM 21074/2017 (exemption) in CEAC 10/2017
CM 21076/2017 (exemption) in CEAC 11/2017
CM 21083/2017 (exemption) in CEAC 12/2017
CM 21087/2017 (exemption) in CEAC 13/2017
CM 21089/2017 (exemption) in CEAC 14/2017
CM 21092/2017 (exemption) in CEAC 15/2017

Allowed, subject to all just exceptions.

CEAC 10/2017 & CM 21073/2017 (stay)
CEAC 11/2017 & CM 21075/2017 (stay)
CEAC 12/2017 & CM 21082/2017 (stay)
CEAC 13/2017 & CM 21086/2017 (stay)
CEAC 14/2017 & CM 21088/2017 (stay)
CEAC 15/2017 & CM 21091/2017 (stay)

1.It is seen from the show cause notices ('SCN') issued to the Appellants that the subject matter concerned availing of exemption as SSI units under the Notification No.8/2003. The case of the Department on the other hand has been that the Appellants are not entitled to such exemption. This would be a matter concerning the rate of duty of excise and therefore outside the ambit of Section 35 G of the Central Excise Act, 1944 (CE Act). The appeal would be maintainable, if at all, only before the Supreme Court of India under Section 35 L of the CE Act.

2. Accordingly, the appeals are dismissed as not being maintainable. The

liberty of the Appellants to file appeals before the Supreme Court against the impugned order of the CESTAT in accordance with law is reserved.

S.MURALIDHAR, J

CHANDER SHEKHAR, J

MAY 29, 2017
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