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

\+ W.P.(C) 5625/2017

M/S SEABREEZE COURIERS & ANR ..... Petitioners

Through: Mr Aravindh S. and Mr Sanjeev Kumar, Advocates.

versus

UNION OF INDIA & ANR ..... Respondents

Through: Ms Shreya Sinha, Advocate for UOI/R-1.
Mr Abhishek Ghai, Advocate for Mr Sanjeev Narula, Sr. Standing counsel for Customs/R-2.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

% 12.07.2017

CM No.23553/2017

1. Allowed, subject to all just exceptions.

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2. The petitioners are authorized International Courier Agents and are operating in various ports in the country including Delhi. The petitioners are also authorised (by their client) to import of certain consignments of gift items of value less than ₹20,000/-. Admittedly, in terms of Notification No.171/1993 dated 16.09.1993 such consignments of "bonafide gifts imported by post or as air-freight" not exceeding the specified amount would be exempted from impost of customs duty.

3. The aforesaid Notification dated 16.09.1993 was rescinded by a Notification No.27/2017 issued on 30.06.2017, which came into effect from 01.07.2017. In the circumstances, the controversy arises as to whether custom duty is chargeable on consignments which were already booked and in transit as well as the consignments which are pending clearance on 1st July 2017.

4. By virtue of the Notification dated 30.06.2017, the exemption as available under the earlier Notification dated 16.09.1993 would not be available w.e.f. 01.07.2017. It is also not disputed that the date for determination of the rate of duty derived for imported goods would have to be determined in accordance with Section 15 of the Customs Act, 1962; it would be the date on which the bill of entry is filed in respect of the goods entered for home consumption.

5. However, the petitioners contend that in terms of the Notification dated 30.06.2017, an exception has been carved out in respect of "*any action done or omitted to be done before such rescission.*" The petitioner's contention is that the exception carved out would enable the petitioner to file the bill of entry even post 30.06.2017 in respect of the consignments that were in transit or had already reached India. The learned counsel for the petitioner submits that since the goods were already in transit or had reached India prior to the issuance of the Notification dated 30.06.2017, such consignments were expressly outside the purview of the aforesaid Notification dated 30.06.2017. This contention is stoutly disputed by the respondents.

6. After some arguments, the learned counsel for the petitioners seeks to withdraw the present petition with liberty to canvass this issue before the concerned authorities. He further states that representation to this effect will be made to the concerned authorities. Needless to mention that any such representation would be considered in accordance with law as expeditiously as possible.

7. In the circumstances, the petition and the pending application are dismissed as withdrawn with the limited liberty as aforesaid.

VIBHU BAKHRU, J

JULY 12, 2017
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