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

\+ CUSAA 68/2017

MAGICON IMPEX P. LTD. ..... Appellant

Through Mr. Rajesh Mahna, Mr. Ruchir Bhatia, Mr. Ramanand Roy and Mr. Rohit Sharma, Advocates.

versus

COMMISSIONER OF CUSTOMS, NEW DELHI..... Respondent

Through Mr. Harpreet Singh, Sr. Standing Counsel.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MS. JUSTICE PRATHIBA M. SINGH

O R D E R

% **08.12.2017**

C.M. No.44692/2017

Exemption allowed, subject to all just exceptions.

CUSAA 68/2017

Counsel for the appellant submits that this is a case of genuine mistake and not a deliberate misdeclaration. He submits that the Tribunal has not taken into account some facts including the assertion that the appellant had earlier and subsequently also imported the same mobile phones/instruments with the printed Maximum Retail Price (MRP) as Rs.1599/-. It was only on this occasion that the MRP of Rs.1799/- and 1699/- were shown on the packages of mobile phones/instruments. He submits that the decision of the Tribunal, therefore, requires interference.

2. Whether or not it is a case of mistake in mentioning the MRP primarily is a question of fact. Impugned order takes into account the MRP affixed and mentioned on the packaging on each mobile phone. The difference in the MRP printed on each package, viz. the earlier exports, would not have escaped notice of the exporter. Consultation between the appellant and the exporter would have taken place. Redemption fine of Rs.11,50,000/- was imposed on the appellant. The value of the consignment itself was USD 186,550 i.e., approximately Rs.1.3 crores. It is also apparent that the appellant had agreed to pay the differential duty of Rs.1,17,163/- and penalty of Rs.35,000/-. To this extent there is no dispute. The grievance of the petitioner is restricted to is Rs.11,86,252/-.

3. The findings being findings of fact and noticing the total amount which is involved, we are not inclined to issue notice. The appeal is accordingly dismissed.

SANJIV KHANNA, J.

PRATHIBA M. SINGH, J.

DECEMBER 08, 2017
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