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

\+ W.P.(C) 9474/2017

M/S BASANT INDIA LTD ..... Petitioner
Through: Dr.G.K. Sarkar, Mr. Malabika Sarkar, Mr. Prashant Srivastava, Advs.

versus

COMMISSIONER OF CUSTOMS (IMPORT) & ANR. ..... Respondent
Through: Mr. Amit Bansal, Mr. Akhil Kulshrestha, Advocates for R1

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

O R D E R

% **27.10.2017**

Counsel for the respondent who appears on advance notice states that the bank guarantee has been encashed and payment of Rs.7,88,777/- has been received from ABN AMRO Bank, now known as The Royal Bank of Scotland.

Counsel for the petitioner submits that this is factually correct and the fixed deposit receipt given by the petitioner as a security to the bank for issue of the bank guarantee, has been encashed to make the said payment.

The petitioner had imported Connecting Conveyor vide Bill of Entry No. 263944 dated 18.02.2002. The aforesaid goods were released provisionally on execution of PD Bond of Rs.93,65,944/- and bank guarantee for Rs.7,88,777/- in 2002. It is an accepted and admitted position that the assessment has not been passed since 2002. Fifteen years have lapsed. The petitioner has paid bank charges for renewal of the bank guarantees.

The petitioner has stated that they have made repeated requests and sent reminders without the assessment being done. Some of the correspondence made by the petitioner has been placed on record.

It is noticeable that the bank guarantee has been encashed in view of the letter written by the Royal Bank of Scotland that they are winding up their operations in India. The bank guarantee had not been encashed, an account of an adverse order.

In view of the aforesaid factual position, which is not disputed, we would direct the respondent authorities to pass final assessment order within a period of three months from today and in case the final assessment order is not passed within the said time, the proceedings would be treated as abated and closed and the respondents would not be able to pass the final assessment order. In case the final assessment order is not passed within three months and the proceedings abate, the respondents would within two weeks of the expiry of three months from the date of this order, pay the encashed bank guarantee amount to the petitioner. In case, the respondents want and seek modification of this order, they would approach the Court within one month from today.

With the aforesaid observations and directions, the writ petition is disposed of.

Order *dasti* under signature of the Court Master.

SANJIV KHANNA, J

OCTOBER 27, 2017/pk **PRATHIBA M. SINGH, J**