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

\+ **CUSAA 61/2017 & CM APPL. 39925-26/2017**

THE COMMISSIONER OF CUSTOMS (IMPORT)INLAND CONTAINER DEPOT. ..... Appellant

Through: Mr. Deepak Anand, Standing Counsel.

versus

INDO RUBBER AND PLASTIC WORKS ..... Respondent

Through: None

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

O R D E R

% 07.11.2017

We are not inclined to issue notice in the present appeal by the revenue impugning the order dated 5th April, 2017 passed by the Customs, Excise and Service Tax Appellate Tribunal ('CESTAT') in Customs Appeal no.53659/2015.

The respondent's claims for refund have been allowed in terms of the decisions of the Delhi High Court in ***Micromax Informatics Ltd. vs. Union of India [2016 (335) ELT 0446 (Del)], Yu Televentures Pvt Ltd Vs. UOI [2016 (340)ELT 88 (Del)]*** and ***Aman Medical Products vs. Commissioner [2010 (250) ELT 30 (Del)]***, and other cases.

There is no dispute that the rate of duty applicable in terms of the Notification No.2/2011/CUS dated 1st March, 2011 was 6%. Refunds are in terms of this notification.

Learned counsel for the appellant has submitted that the revenue has not accepted the said decisions and special leave petition has been filed in the case of ***Micromax (supra)*** and ***Aman Medical Products*** (*supra*). It is however accepted that the operation of the aforesaid decisions has not been stayed. In ***Micromax (supra)***, refunds have also been released to the Petitioner therein.

In view of the above, the appeal is dismissed. The pending applications are disposed of as infructuous.

SANJIV KHANNA, J

PRATHIBA M. SINGH, J

NOVEMBER 07, 2017

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