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

\+ W.P.(C) 203/2018 & CM No.822/2018

INTERNATIONAL FASTENERS THROUGH ITS PROPRIETOR
..... Petitioner

Through: Ms. Vidushi Shubham, Advocate

versus

COMMISSIONER OF CUSTOMS (EXPORT) ..... Respondent

Through: Mr. Harpreet Singh, Senior Standing Counsel with Ms. Bhavya Dubey, Advocate

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

O R D E R

% **11.01.2018**

1. In view of the alternative statutory remedy provided under the Customs Act, 1962 (‘Act’ for short) against the order or condition imposed under Section 110A of the Act, we are not inclined to entertain the present writ petition. A similar situation was dealt with by this Court in WP(C) No.10015/2017, titled ***Hind Global Enterprises v. The Commissioner of Customs & Anr.*** and the petitioner therein was asked to avail the alternative statutory remedy.

2. Learned counsel for the petitioner has relied on the decision of this Court in ***Mala Petrochemicals & Polymers v. ADG DRI, 2017(353) ELT 446(Del.)***. In the said case, the writ petition was filed

to direct the respondents to provisionally release the imported and seized goods. The context and factual background in which this decision was pronounced was slightly different. Whether or not to entertain a writ petition, is a discretion exercised by the Court, keeping in view the facts of each case. In the present case, the allegations are of under-valuation and the grievance of the petitioner is against the furnishing of a bank guarantee of Rs.64,75,160/-. The petitioner does not have any grievance with regard to submission of the bond of Rs.2,94,44,889/-. Learned counsel for the petitioner also states that the petitioner does not have any grievance against furnishing of a bank guarantee for the differential duty, but the grievance is restricted to the 10% of the re-assessed value. These are aspects which can be best examined and judged by the appellate authority.

3. Learned counsel for the petitioner submits that the petitioner is confused whether the appeal would be listed before the Commissioner (Appeals) or the Tribunal. Learned counsel for the respondent clarifies that the appeal would be listed before the Commissioner (Appeals). We also clarify that if the appeal is filed within next seven days, the same would not be dismissed on the ground of limitation. We hope and trust that the said authority would decide the case expeditiously, and preferably within a period of ten days from the date, appeal is preferred.

4. With the aforesaid observations, the writ petition is disposed of as not entertained, without expressing any opinion on merits and without any order as to costs. The pending application is also

disposed of.

Dasti under signature of the Court Master.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

JANUARY 11, 2018
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