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

+ CUS.A.C. 1/2018

AJAY KAUSHAL

..... Petitioner

Through: Mr.Rupesh Kumar and Mr.Pravesh
Bahuguna, Advocates.

versus

COMMISSIONER OF CUSTOMS (PREVENTIVE)

..... Respondent

Through: Mr.Amit Bansal, Sr.Standing Counsel.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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31.10.2018

CM APPL.45763/2018 (for early hearing)

For the reasons mentioned in the application, the same is allowed and the appeal is taken up for hearing.

The application is disposed of accordingly.

CUS.A.C. 1/2018

This appeal challenges a common order which was also the subject matter of other appeals [CUSAA 29/18, 142/18, 125/18, 137-138/18, 143/18 & 148/18- Rohit Sakhuja vs. Commissioner of Customs (Preventive) & Connected matters.]. Those appeals were disposed of on 23.07.2018 by a common order.

The order reads as follows:-

“The common question involved in this appeal filed against common order in Original No.09/KAM/COMMR/2015 dated 16.01.2015 under Section 130 of the Customs Act, 1962 is that the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) vide common impugned order dismissed all the appeals. The appellant's grievance is that the appeals were filed by way of First Appeals, directed against the order of the Commissioner which had imposed substantial liabilities in the form of huge penalties. Given these facts, the CESTAT did not even consider or deal with their arguments on the merits . We have heard counsel for the parties. There is no merit in the appellant's grievance; the order in original - the common one against several assesseees, was appealed through separate proceedings. The CESTAT noticed the arguments addressed in each of those appeals, however, it summarily disposed of all the appeals in merely two paragraphs, on an assumption of culpability and consequential reliability of the assesseees.

There is no gainsaying that in an appeal the person aggrieved has a right to address the facts in law. That the CESTAT was presented with the arguments on merits undisputed given the tenor of its order , yet it is an unreasoned order as regards the conclusions and why it chose to dismiss the appeals . The impugned orders are accordingly set aside. The matter is remitted for fresh hearing and consideration by the CESTAT which shall address the arguments of all the appellants on their merits and pass a speaking and reasoned order dealing with all contentions.

The appeal is partly allowed in the above terms.....”

Since the appellant's grievance is identical to that in *Rohit Sakhuja's (supra)* batch of cases, this Court is of the opinion that the

directions in those cases would be equally applicable in the present appeals.

Accordingly, following *Rohit Sakhuja (supra)* the appeal is partly allowed; and is remitted for fresh hearing and consideration by Customs Excise and Sales Tax Appellate Tribunal which shall deal with all the contentions of the parties and pass a speaking and reasoned order. All rights and contentions of the parties are reserved.

Parties are directed to be present before the CESTAT on 19th November, 2018 for directions.

The Registry is directed to transmit a copy of this order directly to the CESTAT for due compliance and notice to the concerned parties.

S. RAVINDRA BHAT, J.

PRATEEK JALAN, J.

OCTOBER 31, 2018

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