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

\+ CUSAA 111/2018

HARKARAN DASS DEEP CHAND ..... Appellant
Through: Mr. Kartik Jindal & Mr. Ajinkya Tiwari, Advocates

versus

COMMISSIONER OF CUSTOMS ..... Respondent
Through: Mr. Sanjeev Narula, SSC with Mr. Abhishek Ghai, Advocate

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

O R D E R

% **16.05.2018**

The present appeal under Section 130 of the Customs Act, 1962 arises from the order dated 25.7.2017 passed by Customs, Excise and Service Appellate Tribunal ('CESTAT') in Appeal (C) No.166-169/2010.

The appeal was admitted for hearing vide order dated 18.4.2018 on the following substantial question of law:

> "Whether the Customs, Excise and Service Tax Appellate Tribunal ('CESTAT') was justified and correct in law in passing an order or remand to the original adjudicating authority to first decide the issue of jurisdiction, after decision of the Supreme Court in Civil Appeal preferred against the decision of Delhi High Court in *Mangli Impex Limited v. Union of India, 2016(335) DLT 605(Del.)*?"

Learned counsel for the parties submit that the issue and question in the present appeal is covered by the several decisions of this Bench, including the decision dated 20.11.2017 passed in CUSAA 57/2017, titled ***Vipul Overseas Pvt. Ltd. v. Commissioner of Customs & Ors.***

For the reasons given in the aforesaid order passed in ***Vipul Overseas Pvt. Ltd. v. Commissioner of Customs & Ors.*** (supra), the order of the CESTAT is set aside, with an order on remand to the CESTAT to decide the appeal on merits, including the question of jurisdiction of the officers of Directorate of Revenue Intelligence, without being influenced by the decision of the Delhi High Court in the case of ***Mangli Impex Limited v. Union of India, 2016(335) DLT 605(Del.)***. We also clarify that we have not expressed any opinion on merits of the appeals or the procedure which the Tribunal may want to follow, i.e., whether to await the judgment of the Supreme Court challenging the decision in the case of ***Mangli Impex Limited v. Union of India*** (supra)or to decide the issue at this stage.

The question of law is accordingly answered in favour of the appellant and against the Revenue, with a clarification that we have not commented on merits. There would be no order as to costs.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

MAY 16, 2018/tp