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

\+ CUSAA 86/2018

KAMAL SEHGAL ..... Appellant

Through Mr. S. Sunil, Advocate.

versus

THE COMMISSIONER OF CUSTOMS (GENERAL)..... Respondent

Through Mr. Amit Bansal, Advocate.

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

<u>O R D E R</u>

% **16.04.2018**

Counsel for the respondent states that they have obtained instructions on telephone that the appeal preferred by the appellant may be restored to be decided by the Customs, Excise and Service Tax Appellate Tribunal.

2. With the consent of the counsel for the parties, we frame the following substantial question of law:-

> "Whether the Customs, Excise and Service Tax Appellate Tribunal was right in dismissing the appeal preferred by the appellant, a Customs Clearing Agent, under Section 129A of the Customs Act, 1962 on the ground that the appellant has challenged the show cause notice before the Delhi High Court in W.P. (C) No. 8699/2016, wherein the matter is sub judice?"

3. Counsel for the appellant in our opinion rightly submits that the scope of jurisdiction and interference against the show cause notice is

limited, whereas interference by appellate forum against the final order is wider and broader. Further, the appellant has already made a statement that he would be withdrawing the writ petition as final order has been passed.

4. Counsel for the respondent states they have no objection in case the appeal preferred by the appellant before the Tribunal is heard and decided on merits, provided the appellant withdraws W.P. (C) No. 8699/2016.

5. Question of law is accordingly answered in favour of the appellant with a direction that the appeal would be restored to its original number and would be heard and decided on merits. Appellant would withdraw W.P. (C) No.8699/2016/2016 and would place on record copy of the order passed by the High Court withdrawing W.P. (C) No. 8699/2016. The appeal is accordingly disposed of, without any order as to cots.

6. To cut short delay, the appellant is directed to appear before the Tribunal on 7th May, 2018.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

APRIL 16, 2018
NA