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

+ **W.P.(C) 2632/2018**

PRAGATI MARBLES & GRANITES PVT. LTD. Petitioner

Through : Mr V.V.Gautam, Mr Shailja Nanda
Mishra and Mr Prashant Dubey,
Advocates.

versus

THE COMMISSIONER OF CUSTOMS (IMPORT) & ANR.

..... Respondents

Through : Mr Deepak Anand, JSC for Custom
Department.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **12.07.2018**

The petitioner's grievance is that the impugned order to the extent it does not deal with the importation of polished marble slabs of 1192.3 sqm. is arbitrary. The goods were imported; according to the Custom Authorities, there was a mis-declaration of the quantity. After investigation, the Adjudicatory Authority, i.e. the Additional Commissioner of Customs confiscated 831.70 sq.m., valued at a unit price (CIF) of USD 40 per sqm. and confirmed the total assessable value at Rs.21,89,084/- upon which additional duty of Rs.11,90,161/- was imposed. The order also confiscated the said quantity subject to payment of redemption fine of Rs.5 lakhs and a penalty of Rs.1,20,000/-.

Learned counsel for the respondent submits that in case the petitioner is aggrieved by the order, whether it chooses to pay the

redemption fine and the additional duty or not, it has recourse to have other legal proceedings and in that event, it has obligation to pay penalty for having mis-declared the quantity of goods,.

Having heard the learned counsel for the parties, this Court is of the opinion that the Additional Commissioner of Customs should pass a complete order with respect to the balance quantity in dispute i.e. Rs.11,90,161/-. The appropriate orders shall be made by the Additional Commissioner of Customs, in the circumstances, with respect to the said quantity of Rs.11,90,161/- within two weeks from today.

In case the petitioner has declared the correct value and paid the duty, in such an event, subject to its paying the penalty of Rs.1,20,000/-, the goods should be released.

This is without prejudice to the petitioner's right to challenge the impugned order, in accordance with law.

The writ petition is allowed in the above terms.

The petitioner is at liberty to apply to CONCOR, given the limitation of three months from the date of the order permitting release for waiver of demurrage/prevention charges. In case such an application for waiver is made, that shall be considered in accordance with law.

Dasti.

S. RAVINDRA BHAT, J

JULY 12, 2018/§D'

A. K. CHAWLA, J