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

\+ CUSAA 127/2018

A S EXPORTS THROUGH PROPRIETOR ..... Appellant
Through: Mr.Kartik Rai, Advocate.

versus

COMMISSIONER OF CUSTOMS ..... Respondent
Through: Mr.Harpreet Singh, Advocate

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% **11.09.2020**

The proceedings in the matter have been conducted through video conferencing.

CM APPL. 22338/2020 *(for directions)*

1. The appellant in CUSAA 127/2019 has filed the present application for the following relief:

> *"Therefore in the above noted facts and circumstances it is respectfully prayed to this Hon'ble Court:*
> *(A) Pass an order for removing the attachment order from the account bearing No. 0120002100745626 in the name of M/s A.S. Exports existing in Punjab National Bank, Gurudwara Road Branch, Karol Bagh, New Delhi and allow the operation of the same.*
> *(B) Pass such other or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."*

2. The appeal filed by the appellant/ applicant concerned an export of

277 logs of Red Sanders wood, which is prohibited under the Foreign Trade (Development and Regulation) Act, 1992 and the relevant Export Policy of the Government of India. The contention of the appellant that he was not aware about the contents of the consignment was rejected by the Adjudicating Authority, and a penalty of Rs. 20 lakhs was imposed upon the appellant vide order dated 06.05.2014. This was affirmed by the Commissioner (Appeals) and the Customs, Excise and Service Tax Appellate Tribunal by orders dated 11.09.2015 and 21.08.2017 respectively. The appellant challenged the order of the Tribunal by way of CUSAA 127/2018.

3. The appeal was disposed of by this Court, by an order dated 11.12.2018, wherein it was held as follows:

> *"3. This Court had considered the record. It is evident that the statements of the witnesses clearly disclose that the appellants were attempting to smuggle Red Sanders wood, the prohibited item. Given the intensive nature of the fact analysis conducted by the lower authorities, the Court is of the opinion that no question of law arises. At this stage learned counsel for the appellant submitted that the appellants are unable to discharge the penalty obligation in one instance and therefore, requested that they be afforded relief by facilitating discharge of penalty in instalments.*
> *4. The customs authorities are directed to recover the penalties imposed upon the appellants in twelve equal instalments, which are to be paid on or before 31.03.2020."*

4. In the present application, the appellant seeks a direction lifting the attachment in respect of his bank account. It is stated that the appellant was unable to make payment of the penalty amount as directed by the Court due to the attachment of the aforesaid account.

5. We are not inclined to accept this contention on behalf of the

appellant. It is significant that the appellant has approached this Court for these directions only on 25.08.2020, well after the time granted for payment of the entire penalty amount had lapsed. Upon inquiry, learned counsel for the appellant stated that the appellant has made payment of only Rs. 3 lakhs out of the penalty amount of Rs. 20 lakhs. The conduct of the appellant inspires no confidence, and belies its plea that the payment has not been made due to the attachment of its account. The directions extracted above were issued in the light of the appellant's plea for grant of instalment payments, and he was dutybound to adhere to its terms.

6. In view of the aforesaid facts, there is no substance in this application and the same is hereby dismissed.

CHIEF JUSTICE

PRATEEK JALAN, J

SEPTEMBER 11, 2020
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