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

\+ CUSAA 149/2018 & CM APPL. 25728/2018

PR. COMMISSIONER OF CUSTOMS (PREV.), ... Appellant
Through: Mr.Harpreet Singh, Sr.Standing Counsel with Ms.Subhani Mathur, Advocate

versus

ROHIT KUMAR, CHARTED ENGINEER ..... Respondent
Through: Appearance not given

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **30.10.2018**

Learned counsel appears on behalf of the respondent/Assesse. The Court noticed that in identical circumstances where similar issues were sought to be urged, this Court had directed in the appeals entitled *Commissioner of Customs (General) vs. SAP India Pvt. Ltd.,* CUSAA 40/2018 and other connected matters, decided on 2nd April, 2018, as under:

> *"Accordingly, the impugned order challenged in these appeals, remanding the matter to the adjudicating authority to await the judgment of the Supreme Court in the appeal preferred against the decision in* ***Mangli Impex Limited vs. Union of India*** *2016 (335) ELT 605 (Del) is set aside.*
>
> *The appeals preferred before the Tribunal are restored to their original position. The Tribunal would decide the appeals*

> *on merits including the question of jurisdiction of the officer of the Directorate of Revenue Intelligence who had issued show cause notices. The said issue would be examined by the Tribunal without being influenced by the decision of the Delhi High Court in the case of Mangli Implex Limited (supra). We clarify that we have not expressed any opinion on merits of the appeals or on the procedure that the Tribunal should adopt and follow.*
>
> *Question of law is accordingly answered. The appeals are disposed of in the aforesaid terms. There would be no order as to costs."*

Following the above decision, the impugned order is hereby set aside and the matter is remitted to the CESTAT, which shall proceed to examine and decide the merits of the appeals, without being influenced by the decision of this Court in *Mangli Impex* (supra). The Court, at the same time, like in the other cases, expresses no opinion on the merits or procedure that the Tribunal should adopt and follow.

The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

OCTOBER 30, 2018
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