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

\+ CUSAA 145/2018 & CM No.23952/2018

COMMISSIONER OF CUSTOMS (EXPORT) ..... Appellant
Through: Mr. Amit Bansal, Senior Standing Counsel.

versus

SHRI VIKRAM KOTHARI ..... Respondent
Through: Mr. Pankaj Bhatia, Mr. Amit Awasthi, Mr. Dhruv Surana and Mr.Ashish Choudhary, Advocates.

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

O R D E R

% **29.10.2018**

It is brought to the notice of the Court that the circular of Central Board of Excise and Customs (CBEC) dated 26.12.2014 instructs the Custom and Other Indirect Tax Revenue Authorities with regard to their approach they have to adopt where appeals are to be preferred against the composite orders. Para 4 of the instruction dated 26.12.2014 reads as follows:-

"The Instructions mentioned above used the word "case". However, the same was not defined. The term "case" needs to be interpreted in the context of National Litigation Policy which aims at reduction of litigation. In respect of a composite order which

disposes of more than one appeal/SCN and the Department contemplates filing of appeal, every appeal would be a "case" and should be subjected to the threshold limit prescribed. To illustrate, if the Tribunal passes one composite order disposing of more than one appeal filed before it, and if the Department being aggrieved is required to file more than one appeal against the said Tribunal order, then each appeal shall be subject to the monetary limit prescribed."

According to the extant instruction and circular the monetary limit for preferring an appeal to this Court by virtue of the notification dated 17.12.2015 (under Section 131BA of the Customs Act) is ₹15 lakhs. In this case the tax effect, being the penalty amount is ₹8 lakhs. So clearly, the appeal cannot be prosecuted by the Revenue.

It is accordingly disposed of because of low tax effect.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

OCTOBER 29, 2018

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