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

+ **W.P.(C) 6621/2018**

WINDLASS ONLINE STORES PVT LTD Petitioner

Through: Mr.Anshuman Sahni, Mr.Apurv
Chandola and Mr.Varun Chhabra,
Advocates.

versus

**JOINT COMMISSIONER OF CUSTOMS ACC (IMPORT) IGI
& ORS** Respondents

Through: Mr.Harpreet Singh, Sr. Standing
Counsel for R-1 to R-4.
Mr.Arun Bhardwaj, Advocate for R-5
& R-6.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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03.07.2018

C.M.No.25265/2018 (for exemption)

Allowed, subject to all just exceptions.

W.P.(C) 6621/2018 and C.M.No.25264/2018 (for interim directions)

The petitioner challenges the confiscation order strenuously contending that the adjudicatory authority, i.e. Joint Commissioner of Customs ignoring the material evidence, placed undue importance on the report of the customs authorities rather than that of FSL. Besides this submission, it is also contended that the purpose for the goods imported are to be taken note of rather than the potential for their change is to be the basis for the classification.

This Court is of the opinion that the impugned order issued by the Joint Commissioner, being appealable *per se*, the question of exercising jurisdiction under Article 226 of the Constitution to enter into the disputed question of facts would not be appropriate. At the same time, given that the time prescribed for filing the appeal would in all probabilities might have lapsed, the Court is of the opinion that in case the petitioner prefers an appeal to the Commissioner (Customs), within two weeks from today, such appeal shall be heard and decided on its merits, unhindered by the issue of limitation. The Commissioner shall deal with all the contentions urged and averred before him. The appellate order shall be made at the earliest expedience of the Commissioner and preferably, within six months. All rights and contentions of the parties are reserved.

The writ petition is disposed of in the above terms.

Copy of the order be given *dasti*.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JULY 03, 2018

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