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

\+ CUSAA 154/2018

PR. COMMISSIONER OF CUSTOMS, PREVENTIVE COMMISSIONERATE ..... Appellant

Through: Mr. Harpreet Singh, Sr. Standing Counsel with Mr. Suresh Chaudhary, Advocate.

versus

M. R. REDDY ..... Respondent

Through: Ms. Apeksha Mehta and Mr. Yogendra Aldak, Advocates.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

O R D E R

% **13.07.2018**

CM APPL. 27266/2018 *(for condonation of delay)*

For the reasons mentioned in the application, the delay of 173 days in filing the appeal is hereby condoned.

Application stands disposed of.

CM APPL. 27267/2018 *(for exemption)*

Allowed, subject to all just exceptions.

CUSAA 154/2018

The question urged by the appellant in this appeal is as under:-

> *"Whether the Customs, Excise & Service Tax Appellate Tribunal (hereinafter 'CESTAT') was justified in*

remanding the matter for adjudication to the concerned official to first decide the issue of jurisdiction after the appeal pending in the Supreme Court against the reported judgment in the case of Mangli Impex Limited vs. Union of India, 2016 (339) ELT 605 (Del.) is decided?"

Issue notice.

Ms. Apeksha Mehta, Advocate appears and accepts notice on behalf of the respondent.

It is agreed, at the outset, by learned counsel for the parties that in the identical circumstances, where a similar issue was sought to be urged, this Court had passed an order in a batch of appeals [Commissioner of Customs (General) vs. SAP India Pvt. Ltd., CUSAA 40/2018 and other connected matters decided on 02.04.2018].

The Court had then directed as follows:-

> *"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.*
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> *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 appeal 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

A. K. CHAWLA, J

JULY 13, 2018
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