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

+ **W.P.(C) 9078/2018, CM APPL. 34949-34950/2018**

AMRUDDIN GHANI

..... Petitioner

Through: Mr. Zeeshan Khan, Mr. Kaleem Akhtar,
Mr. Mafaz Saleem & Mr. Haider Ali, Advs.

versus

CHIEF CUSTOMS COMMISSIONER & ORS. Respondents

Through: Mr. Sanjeev Narula, SSC for Customs.
with Mr. Abhishek Ghai, Adv.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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29.08.2018

The petitioner is aggrieved by the order of the Additional Commissioner of Customs, who ordered absolute confiscation of foreign currency equivalent to ₹05,18,980/- under Section 113 of the Customs Act and also imposed penalty. It is contended that the amounts were to be received for the work done, for the services rendered to the Embassy of Islamic Republic of Afghanistan and that the amount, was not sought to be smuggled or clandestinely credited in. Learned counsel emphasized that the letter relied upon by the Additional Commissioner, was extracted a backdated letter at the instance of Embassy of Islamic Republic of Afghanistan. Since the petitioner has the benefit of approaching the Appellate Tribunal and

then if necessary to the CESTAT, it would be inappropriate for this Court to exercise the writ jurisdiction. At the same time, the requirement of depositing and paying any pre-deposit is a condition for preferring an appeal (to the Commissioner of Appeals), the same is hereby directed to be dispensed with in case the petitioner files an appeal within two weeks, the Commissioner shall not insist on the pre-deposit of the amounts towards penalty and shall hear and dispose of the appeal on its merits.

All rights and contentions of the parties are reserved.

The writ petition is disposed of in the above terms.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

AUGUST 29, 2018/akv