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

+ **W.P.(C) 8738/2018**

WIDE IMPEX

..... Petitioner

Through: Ms. Nidhi Saini, Adv. for Ms. Anjali
J. Manish, Adv.

versus

THE COMMISSIONER OF CUSTOMS (IMPORT),

ICD, TUGHLAKABAD, NEW DELHI & ORS. Respondents

Through: Mr. Harpreet Singh, Sr. Std. Counsel.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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19.02.2019

CM APPL. 7852/2019

Exemption allowed, subject to all just exceptions.

The application is disposed of.

CM APPL. 7851/2019

Issue notice. Mr. Harpreet Singh, Senior Standing Counsel accepts notice.

This writ petition was allowed to be withdrawn and the petitioner was permitted to seek alternative remedy by way of an appeal. The applicant urges that the Court should modify the order atleast to the extent of considering its application for waiver of late presentation charges. The facts relating to this are that on 15.01.2018 the consignment landed but no Bill of Entry was filed within the time prescribed. The petitioner's manager was arrested on 21.02.2018 and later enlarged on bail on 09.03.2018. Eventually,

the Bill of entry was filed on 02.06.2018. In the application made for waiver on 02.08.2018, the petitioner had urged that it was going through a cash deficit and, therefore unable to file the Bill of Entry on time. It appears that the assessing authority -Assistant/Deputy Commissioner concerned, rejected the application and calculated the late payment charges – which worked out to Rs. 13,55,000/-. The Court was shown Regulation 4(4) of Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulation, 2018, which categorically states that the late payment fees cannot exceed the basic duty. In this case, the duty calculated worked out to Rs. 11,72,499/-. Clearly, therefore, the recovery of such a large amount was unjustified. Furthermore, in view of these circumstances, and given that the disposal of the earlier application was by an unreasoned order, this Court is of the opinion, that concerned authority [Assistant Commissioner /Deputy Commissioner] should consider afresh the applications dated 02.08.2018 and 24.01.2019 and after giving petitioner/applicant appropriate hearing, decide the issue of waiver - whether sufficient cause has been shown and to what extent shall late presentation charges be paid by the petitioner/applicant in the facts of the case.

The application is disposed of.

The copy of the order be given *dasti* under the signatures of Court Master.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

FEBRUARY 19, 2019

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