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

\+ CUSAA 203/2018 & CM APPL. 38149-38151/2018

PERSONAL CREATION

..... Appellant

Through Mr.Randhir Kumar, Adv.

versus

THE COMMISSIONER OF CUSTOMS (APPEALS),& ANR.

..... Respondents

Through Mr.Harpreet Singh, Sr. Standing Counsel Ms.Sulani Mathur, Adv.

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

O R D E R

% **17.09.2018**

The question of law asserted herein is that the penalty imposed on the appellant under Sections 112 and 117 of the Customs Act, 1962 which were to the tune of Rs.73,000/- and Rs.50,000/- are not justified.

It is contended that the CESTAT fell into error in summarily rejecting the appellant's invoking second proviso to Section 129A. According to the appellant the provision did not *per se* apply to the circumstances of this case.

The CESTAT, which has been conferred jurisdiction under law to adjudicate and decide the issues, both on facts and law in all cases, is expected to do so after adverting to relevant facts. However, a small area of discretion is given to the CESTAT i.e. where the value of the subject matter of the appeal is lower than Rs.2 lakhs. The parliamentary intent presumably was that in regard to such matters the CESTAT should not be compelled to decide the appeals before it in all cases on merits and rather should be permitted to exercise its jurisdiction in taking up matters having regard to the complexity of the facts or law involved. In the present case, the CESTAT appears to have considered the fact that the appeal value was low. Furthermore the court notices that the appellant had lost and was unsuccessful in both orders (in original as well as in appeal). In these given circumstances, the exceptional nature of the power resorted to by the CESTAT cannot be faulted.

Appeal is therefore dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

SEPTEMBER 17, 2018

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