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

\+ CUSAA 197/2018

AJIT SINGH CHADHA ..... Appellant

Through: Mr. Pradeep Jain and Mr.Shubhankar Jha, Advocates.

versus

COMMISSIONER OF CUSTOMS (PREVENTIVE) ..... Respondent

Through: Mr. Harpreet Singh, Sr. Standing Counsel for respondent with Mr.Suresh Chaudhary and Ms.Suhani Mathur, Advocates.

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

**<u>O R D E R</u>**

% **28.09.2018**

**<u>CM APPL. 36955/2018 (for condonation of delay)</u>**

For the reasons mentioned in the application, the delay of 5 days in filing the instant petition is hereby condoned.

Application stands disposed of.

**<u>CM APPL. 36956/2018 (for exemption)</u>**

Allowed, subject to all just exceptions.

**<u>CUSAA 197/2018</u>**

Issue notice. Mr. Harpreet Singh, Advocate accepts notice on behalf of the respondent.

With the consent of the parties, the matter is heard finally.

This appeal concerns the same question that was before this Court in CUSAA 29/2018 and connected case [Rohit Sakhuja vs. Commissioner of Customs (Preventive)] which was disposed of finally on 23.07.2018. The Court disposed of the appeals in the following terms:

> "*The common question involved in these appeals filed against common order in Original No.09/KAM/COMMR/2015 dated 16.01.2015 under Section 130 of the Customs Act, 1962 is that the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) vide common impugned order dismissed all the appeals. The appellant's grievance is that the appeals were filed by way of First Appeals, directed against the order of the Commissioner which had imposed substantial liabilities in the form of huge penalties. Given these facts, the CESTAT did not even consider or deal with their arguments on the merits.*
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> *We have heard counsel for the parties. There is no merit in the appellant's grievance; the order in original - the common one against several assessees, was appealed through separate proceedings. The CESTAT noticed the arguments addressed in each of those appeals, however, it summarily disposed of all the appeals in merely two paragraphs, on an assumption of culpability and consequential reliability of the assessees.*
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> *There is no gainsaying that in an appeal the person aggrieved has a right to address the facts in law. That the CESTAT was presented with the arguments on merits undisputed given the tenor of*

*its order, yet it is an unreasoned order as regards the conclusions and why it chose to dismiss the appeals. The impugned orders are accordingly set aside. The matter is remitted for fresh hearing and consideration by the CESTAT which shall address the arguments of all the appellants on their merits and pass a speaking and reasoned order dealing with all contentions.*

*The appeals are partly allowed in the above terms."*

As stated earlier since question involved in this appeal and the other appeals is identical – they are connected with the same impugned order, the approach has to be common. Consequently, the appeal is allowed and the matter is remitted to Customs, Excise and Service Tax Appellate Tribunal (CESTAT) which shall hear the appeal before it along with this appeal which are scheduled to be heard on 18.10.2018.

The parties are directed to be present before the CESTAT for further directions on 11th October, 2018.

Order *dasti* under signature of the court master to the parties.

**S. RAVINDRA BHAT, J**

**A. K. CHAWLA, J**

**SEPTEMBER 28, 2018**

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