$~8, 11, 12, 13 & 14

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

\+ **CUSAA 235/2018 & CM APPL. 40574-75/2018**

\+ **CUSAA 239/2018 & CM APPL. 40585-86/2018**

\+ **CUSAA 240/2018 & CM APPL. 40587-88/2018**

\+ **CUSAA 241/2018 & CM APPL. 40589-90/2018**

\+ **CUSAA 242/2018 & CM APPL. 40593-94/2018**

COMMISSIONER OF CUSTOMS ..... Appellant

Through: Mr. Harpreet Singh, Senior Standing Counsel with Ms. Suhani Mathur, Advocate.

versus

ANUJ JAIN PARTNER ..... Respondent

MANOJ KUMAR SANJAY KUMAR ..... Respondent

SHUBHAM INTERNATIONAL ..... Respondent

SANJAY GUPTA PARTNER ..... Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% **19.11.2018**

1. The question urged by the appellants in these appeals 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?"*

2. Issue notice.

3. No one appears on behalf of the respondents, despite service of notice.

4. It is submitted, at the outset, by learned counsel for the appellants 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].

5. 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.*
>
> *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."*

6. Following the above decision, the impugned order is hereby set aside and the matters are remitted to the CESTAT which shall proceed to examine and decide the merits of the appeals 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.

7. The Tribunal is directed to issue reasonable notice to the assessees for hearing from the Revenue and the appeal before it.

8. The appeals are partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

NOVEMBER 19, 2018
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