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

+ **FAO(OS) (COMM) 259/2018**

COMMISSIONER OF CUSTOMS (IMPORT) Appellant

Through: Mr.Amit Bansal, Advocate

versus

LG ELECTRONICS INDIA PRIVATE LIMITED Respondent

**Through: Mr.Hemant Singh, Mr.Vipul K.Tiwari
& Ms.Shruttina, Advocates**

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

30.11.2018

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1. The question which led the customs department to proceed in the present appeal - directed against a detailed interlocutory order of the learned Single Judge, in the course of the suit, that sought to restrain it from impounding the goods of a patent owner/importer - have been rendered infructuous.

2. The Court had, by the elaborate judgment, restrained the appellants from what is termed as groundless threats and held that no power existed under the Customs Act to impound the goods. The notification of 02.06.2018, which amended the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007, has the effect of taking out of the purview of the customs authorities, jurisdiction to examine and take appropriate action including towards impounding of the allegedly infringing goods.

3. Furthermore, the judgment of this Court in *Telefonaktiebolaget LM Ericsson Torshamnsgatan, 23 Kista Vs. Union of India & Ors.* 2012 (52) PTC 494 (Del.)(DB), has ruled otherwise.
4. In fact even the patent which formed the basis of the enforcement action by the appellant, was cancelled in rectification proceedings by the Intellectual Property Appellate Board.
5. In this view of the matter, the Court is of the opinion that the appeal has been rendered infructuous. It is accordingly dismissed as infructuous.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

NOVEMBER 30, 2018

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