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

+ **W.P.(C) 10465/2017**

ROBIN BARTHOLOMEW & ANR. Petitioners
Through **Ms.Pooja M.Saigal and Ms.Jasmine**
Kottai, Advocates

versus

OFFICE OF COMMISSIONER OF CUSTOMS (EXPORT)
THROUGH DEPUTY COMMISSIONER & ANR.

..... Respondents
Through **Mr.Harpreet Singh, Sr.Standing**
counsel for respondent No.1
Ms. Suruchi Suri, Advocate for
respondent no.2/City Bank

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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15.01.2018

Counter affidavit has been filed by the respondent bank. Counter affidavit has not been filed by the first respondent.

Counsel for the first respondent states that they have decided to refund the money to the petitioners.

Stay order was passed by this Court on 24th November, 2017. However, in spite of the stay order, bank draft of Rs.4,36,749/- issued by the Citi Bank was encashed by the Commissioner of Customs, Air Cargo Complex (Mumbai) on 28th November, 2017. The bank claims that encashment was in fact done on 1st December, 2017. Counsel for the first respondent has explained that the Commissioner of Customs, Air Cargo

Complex (Mumbai) had received a copy of the stay order only on 28th November, 2017, after they had sent the bank draft for encashment.

Be that as it may, in view of the statement made, the first respondent would refund the entire amount received, to the petitioners. In addition they would add an amount of Rs.5,000/- towards costs of litigation to be paid to the petitioner. The said refund along with costs would be made by the first respondent within ten days from the date of receipt of a copy of this order.

We are constrained to impose costs as the petitioners had to approach by way of this writ petition and then only the first respondent realised their error and mistake. The petitioners have suffered and should be compensated.

The writ petition is disposed of.

Dasti under signature of the Court Master.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

JANUARY 15, 2018

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