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

\+ CUSAA 110/2019

COMMISSIONER OF CUSTOMS ..... Appellant
Through: Ms. K. Enatoli Sema, Advocate

versus

NOVUS INTERNATIONAL ..... Respondent
Through: Ms. Meenakshi Rawat, Mr. Rajesh Chatri, Mr. Pawan Upadhyay, Advocates

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. As per office report, the appellant did not file process fee. However, Ms. Meenakshi Rawat, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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."*

5. 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 appeal. The respondent/assessee's right to contend that the show cause notice issued in this case were legally untenable, in view of the decision of this Court in *Mangli Impex* (supra), are kept intact. In other words, the Tribunal may hear the parties on the merits of the case as well as with respect to the issue of jurisdiction, if necessary, on account of *Mangli Impex* (supra) and record separate findings. The findings with respect to the lack of jurisdiction, if any, based on the reasoning in *Mangli*

Impex (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019

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

\+ CUSAA 14/2019

COMMISSIONER OF CUSTOMS ..... Appellant
Through: Ms. K. Enatoli Sema, Advocate

versus

BHAI GEHLA SINGH JASWANT SINGH ..... Respondent
Through: Counsel for the respondent Presence not given

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

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

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. Counsel appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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."

5. 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 appeal. The respondent/assessee's right to contend that the show cause notice issued in this case were legally untenable, in view of the decision of this Court in *Mangli Impex* (supra), are kept intact. In other words, the Tribunal may hear the parties on the merits of the case as well as with respect to the issue of jurisdiction, if necessary, on account of *Mangli Impex* (supra) and record separate findings. The findings with respect to the lack of jurisdiction, if any, based on the reasoning in *Mangli Impex* (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
pkb

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

\+ CUSAA 331/2018

COMMISSIONER OF CUSTOMS,(GENERAL) ..... Appellant
Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

SAP INDIA PVT. LTD ..... Respondent
Through: Mr. Karan Sachdev, Ms. Avisha Khatri, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. As per office report, the appellant did not file process fee. However, Mr. Karan Sachdev, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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.*
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> *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.*
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6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CUSAA 332/2018

COMMISSIONER OF CUSTOMS,
(GENERAL) NEW DELHI ..... Appellant
Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

SAP INDIA PVT. LTD ..... Respondent
Through: Mr. Karan Sachdev, Ms. Avisha Khatri, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. As per office report, the appellant did not file process fee. However, Mr. Karan Sachdev, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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.*
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> *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.*
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to the lack of jurisdiction, if any, based on the reasoning in *Mangli Impex* (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CUSAA 333/2018

COMMISSIONER OF CUSTOMS (GENERAL),
NEW DELHI ..... Appellant

Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

SAP INDIA PVT. LTD., ... Respondent

Through: Mr. Karan Sachdev, Ms. Avisha Khatri, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. As per office report, the appellant did not file process fee. However, Mr. Karan Sachdev, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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.*
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> *Question of law is accordingly answered. The appeals are disposed of in the aforesaid terms. There would be no order as to costs."*

5. 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 appeal. The respondent/assessee's right to contend that the show cause notice issued in this case were legally untenable, in view of the decision of this Court in *Mangli Impex* (supra), are kept intact. In other words, the Tribunal may hear the parties on the merits of the case as well as with respect to the issue of jurisdiction, if necessary, on account of *Mangli Impex* (supra) and record separate findings. The findings with respect

to the lack of jurisdiction, if any, based on the reasoning in *Mangli Impex* (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
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$~145

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

\+ CUSAA 334/2018

COMMISSIONER OF CUSTOMS ..... Appellant

Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

HCL TECHNOLOGIES LTD. ..... Respondent

Through: Mr. Karan Sachdev, Ms. Avisha Khatri, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. As per office report, the appellant did not file process fee. However, Mr. Karan Sachdev, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

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> *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.*
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6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
pkb

$~146

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

\+ CUSAA 335/2018

COMMISSIONER OF CUSTOMS (GENERAL)
NEW DELHI ..... Appellant

Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

SAP INDIA PVT. LTD ..... Respondent

Through: Mr. Karan Sachdev, Ms. Avisha Khatri, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. As per office report, the appellant did not file process fee. However, Mr. Karan Sachdev, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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."*

5. 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 appeal. The respondent/assessee's right to contend that the show cause notice issued in this case were legally untenable, in view of the decision of this Court in *Mangli Impex* (supra), are kept intact. In other words, the Tribunal may hear the parties on the merits of the case as well as with respect to the issue of jurisdiction, if necessary, on account of *Mangli Impex* (supra) and record separate findings. The findings with respect

to the lack of jurisdiction, if any, based on the reasoning in *Mangli Impex* (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
pkb

$~141

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

\+ CUSAA 330/2018

COMMISSIONER OF CUSTOMS,(GENERAL) ..... Appellant

Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

SAP INDIA. PVT. LTD ..... Respondent

Through: Mr. Karan Sachdev, Ms. Avisha Khatri, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. As per office report, the appellant did not file process fee. However, Mr. Karan Sachdev, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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.*
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> *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.*
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> *Question of law is accordingly answered. The appeals are disposed of in the aforesaid terms. There would be no order as to costs."*

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Impex (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CUSAA 111/2019

COMMISSIONER OF CUSTOMS ..... Appellant
Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

M/S PARADISE INTERNATIONAL ..... Respondent
Through: Ms. Ria Chanda, Advocate

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

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

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. As per office report, the appellant did not file process fee. However, Ms. Ria Chanda, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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.*
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> *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.*
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Impex (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
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$~110

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

\+ CUSAA 108/2019

COMMISSIONER OF CUSTOMS ..... Appellant
Through: Ms. K. Enatoli Sema, Advocate

versus

M/ S L.D. INTERNATIONAL ..... Respondent
Through: Ms. Ria Chanda, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. As per office report, the appellant did not file process fee. However, Ms. Ria Chanda, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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."*

5. 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 appeal. The respondent/assessee's right to contend that the show cause notice issued in this case were legally untenable, in view of the decision of this Court in *Mangli Impex* (supra), are kept intact. In other words, the Tribunal may hear the parties on the merits of the case as well as with respect to the issue of jurisdiction, if necessary, on account of *Mangli Impex* (supra) and record separate findings. The findings with respect to the lack of jurisdiction, if any, based on the reasoning in *Mangli*

Impex (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
pkb

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

\+ CUSAA 87/2019

COMMISSIONER OF CUSTOMS ..... Appellant

Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

M/S UNIVERSAL ENTERPRISES ..... Respondent

Through: Ms. Ria Chanda, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. As per office report, the appellant did not file process fee. However, Ms. Ria Chanda, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. The Court had then directed as follows:-

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> *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.*
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> *Question of law is accordingly answered. The appeals are disposed of in the aforesaid terms. There would be no order as to costs."*

5. 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 appeal. The respondent/assessee's right to contend that the show cause notice issued in this case were legally untenable, in view of the decision of this Court in *Mangli Impex* (supra), are kept intact. In other words, the Tribunal may hear the parties on the merits of the case as well as with respect to the issue of jurisdiction, if necessary, on account of *Mangli Impex* (supra) and record separate findings. The findings with respect to the lack of jurisdiction, if any, based on the reasoning in *Mangli*

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6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CUSAA 86/2019

COMMISSIONER OF CUSTOMS ..... Appellant

Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

SMT. KAVITA AGARWAL, ... Respondent

Through: Ms. Ria Chanda, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. As per office report, the appellant did not file process fee. However, Ms. Ria Chanda, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. The Court had then directed as follows:-

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> *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.*
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Impex (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CUSAA 84/2019

COMMISSIONER OF CUSTOMS, ... Appellant

Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

ALLIED INDUSTRIES ..... Respondent

Through: Ms. Ria Chanda, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. As per office report, the appellant did not file process fee. However, Ms. Ria Chanda, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

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> *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.*
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6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
pkb

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

\+ CUSAA 310/2018

PR COMMISSIONER OF CUSTOMS, ... Appellant
Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

D. BHANDARI. ..... Respondent
Through: Mr. Karan Sachdev, Ms. Avisha Khatri, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. As per office report, the appellant did not file process fee. However, Ms. Ria Chanda, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

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> *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.*
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Impex (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
pkb

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

\+ CUSAA 252/2018

COMMISSIONER OF CUSTOMS ..... Appellant
Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

HANUMAN AGARWAL ..... Respondent
Through: Ms. Ria Chanda, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. As per office report, the appellant did not file process fee. However, Ms. Ria Chanda, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

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> *"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.*
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5. 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 appeal. The respondent/assessee's right to contend that the show cause notice issued in this case were legally untenable, in view of the decision of this Court in *Mangli Impex* (supra), are kept intact. In other words, the Tribunal may hear the parties on the merits of the case as well as with respect to the issue of jurisdiction, if necessary, on account of *Mangli Impex* (supra) and record separate findings. The findings with respect to the lack of jurisdiction, if any, based on the reasoning in *Mangli*

Impex (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
pkb

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

\+ CUSAA 75/2019

COMMISSIONER OF CUSTOMS ..... Appellant

Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

DIWESH JOSHI, ... Respondent

Through: Mr. Rupesh Kumar, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. As per office report, the appellant did not file process fee. However, Mr. Rupesh Kumar, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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."*

5. 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 appeal. The respondent/assessee's right to contend that the show cause notice issued in this case were legally untenable, in view of the decision of this Court in *Mangli Impex* (supra), are kept intact. In other words, the Tribunal may hear the parties on the merits of the case as well as with respect to the issue of jurisdiction, if necessary, on account of *Mangli Impex* (supra) and record separate findings. The findings with respect to the lack of jurisdiction, if any, based on the reasoning in *Mangli*

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6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
pkb

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

\+ CUSAA 65/2019

COMMISSIONER OF CUSTOMS ..... Appellant

Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

SOCIETY RUBBER INDUSTRIES ..... Respondent

Through: Mr. Rupesh Kumar, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. As per office report, the appellant did not file process fee. However, Mr. Rupesh Kumar, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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.*
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> *Question of law is accordingly answered. The appeals are disposed of in the aforesaid terms. There would be no order as to costs."*

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6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CUSAA 107/2019

COMMISSIONER OF CUSTOMS, ... Appellant

Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

M/ S NIKITA OVERSEAS, ... Respondent

Through: Ms. Ria Chanda, Advocate

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

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

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. Ms. Ria Chanda, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. The Court had then directed as follows:-

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> *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.*
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cases, expresses no opinion on the merits or procedure that the Tribunal should adopt and follow.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CUSAA 105/2019

COMMISSIONER OF CUSTOMS, ... Appellant

Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

M/ S RADHIKA INTERNATIONAL ..... Respondent

Through: Ms. Ria Chanda, Advocate

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

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

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. Ms. Ria Chanda, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

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> *"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."*

5. 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 appeal. The respondent/assessee's right to contend that the show cause notice issued in this case were legally untenable, in view of the decision of this Court in *Mangli Impex* (supra), are kept intact. In other words, the Tribunal may hear the parties on the merits of the case as well as with respect to the issue of jurisdiction, if necessary, on account of *Mangli Impex* (supra) and record separate findings. The findings with respect to the lack of jurisdiction, if any, based on the reasoning in *Mangli Impex* (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
pkb

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

\+ CUSAA 104/2019

COMMISSIONER OF CUSTOMS ..... Appellant

Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

M/S GALAXY IMPEX ..... Respondent

Through: Ms. Ria Chanda, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. Ms. Ria Chanda, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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."*

5. 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 appeal. The respondent/assessee's right to contend that the show cause notice issued in this case were legally untenable, in view of the decision of this Court in *Mangli Impex* (supra), are kept intact. In other words, the Tribunal may hear the parties on the merits of the case as well as with respect to the issue of jurisdiction, if necessary, on account of *Mangli Impex* (supra) and record separate findings. The findings with respect to the lack of jurisdiction, if any, based on the reasoning in *Mangli Impex* (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CUSAA 103/2019

COMMISSIONER OF CUSTOMS, ... Appellant

Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

SMT. NIRMALA AGARWAL, ... Respondent

Through: Ms. Ria Chanda, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. Ms. Ria Chanda, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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."*

5. 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 appeal. The respondent/assessee's right to contend that the show cause notice issued in this case were legally untenable, in view of the decision of this Court in *Mangli Impex* (supra), are kept intact. In other words, the Tribunal may hear the parties on the merits of the case as well as with respect to the issue of jurisdiction, if necessary, on account of *Mangli Impex* (supra) and record separate findings. The findings with respect to the lack of jurisdiction, if any, based on the reasoning in *Mangli Impex* (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CUSAA 67/2019

COMMISSIONER OF CUSTOMS, ... Appellant

Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

DINESH GUPTA ..... Respondent

Through: Mr. Rupesh Kumar, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. Mr. Rupesh Kumar, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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."*

5. 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 appeal. The respondent/assessee's right to contend that the show cause notice issued in this case were legally untenable, in view of the decision of this Court in *Mangli Impex* (supra), are kept intact. In other words, the Tribunal may hear the parties on the merits of the case as well as with respect to the issue of jurisdiction, if necessary, on account of *Mangli Impex* (supra) and record separate findings. The findings with respect to the lack of jurisdiction, if any, based on the reasoning in *Mangli Impex* (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019

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

\+ CUSAA 66/2019

COMMISSIONER OF CUSTOMS ..... Appellant
Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

DIWESH JOSHI ..... Respondent
Through: Mr. Rupesh Kumar, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. Mr. Rupesh Kumar, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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."*

5. 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 appeal. The respondent/assessee's right to contend that the show cause notice issued in this case were legally untenable, in view of the decision of this Court in *Mangli Impex* (supra), are kept intact. In other words, the Tribunal may hear the parties on the merits of the case as well as with respect to the issue of jurisdiction, if necessary, on account of *Mangli Impex* (supra) and record separate findings. The findings with respect to the lack of jurisdiction, if any, based on the reasoning in *Mangli Impex* (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CUSAA 101/2019

COMMISSIONER OF CUSTOMS, ... Appellant

Through: Mr. Ashok K. Manchanda, Senior Standing Counsel for ITD

versus

SH. RAM NIWAS AGARWAL, ... Respondent

Through: Mr. Ajay Vohra, Senior Advocate with Ms. Kavita Jha, Ms. Devika Jain, Mr. Anant Mann, Advocate Ms. Ria Chanda, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. Ms. Kavita Jha, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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."*

5. 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 appeal. The respondent/assessee's right to contend that the show cause notice issued in this case were legally untenable, in view of the decision of this Court in *Mangli Impex* (supra), are kept intact. In other words, the Tribunal may hear the parties on the merits of the case as well as with respect to the issue of jurisdiction, if necessary, on account of *Mangli Impex* (supra) and record separate findings. The findings with respect to the lack of jurisdiction, if any, based on the reasoning in *Mangli*

Impex (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
pkb

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

\+ CUSAA 100/2019

COMMISSIONER OF CUSTOMS ..... Appellant
Through: Mr. Harpreet Singh, Senior Standing Counsel for the appellant

versus

SH. HANUMAN AGARWAL, ... Respondent
Through: Ms. Ria Chanda, Advocate

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

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

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. Ms. Ria Chanda, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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."*

5. 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 appeal. The respondent/assessee's right to contend that the show cause notice issued in this case were legally untenable, in view of the decision of this Court in *Mangli Impex* (supra), are kept intact. In other words, the Tribunal may hear the parties on the merits of the case as well as with respect to the issue of jurisdiction, if necessary, on account of *Mangli Impex* (supra) and record separate findings. The findings with respect to the lack of jurisdiction, if any, based on the reasoning in *Mangli*

Impex (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
pkb

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

\+ CUSAA 99/2019

COMMISSIONER OF CUSTOMS ..... Appellant
Through: Ms. K. Enatoli Sema, Advocate

versus

M/ S METONE ELECTRONICS PVT. LTD ..... Respondent
Through: Ms. Ria Chanda, Advocate

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

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

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. Ms. Ria Chanda, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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."*

5. 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 appeal. The respondent/assessee's right to contend that the show cause notice issued in this case were legally untenable, in view of the decision of this Court in *Mangli Impex* (supra), are kept intact. In other words, the Tribunal may hear the parties on the merits of the case as well as with respect to the issue of jurisdiction, if necessary, on account of *Mangli Impex* (supra) and record separate findings. The findings with respect to the lack of jurisdiction, if any, based on the reasoning in *Mangli Impex* (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
pkb

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

\+ CUSAA 97/2019

COMMISSIONER OF CUSTOMS ..... Appellant
Through: Ms. K. Enatoli Sema, Advocate

versus

SH PRAVEEN KUMAR GOEL ..... Respondent
Through: Mr. Deepak Kumar Mishra, Ms. Palak Nenwani, Advocate

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

O R D E R

% **27.03.2019**

1. The question urged by the appellant in this appeal 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. Mr. Deepak Kumar Mishra, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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."*

5. 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 appeal. The respondent/assessee's right to contend that the show cause notice issued in this case were legally untenable, in view of the decision of this Court in *Mangli Impex* (supra), are kept intact. In other words, the Tribunal may hear the parties on the merits of the case as well as with respect to the issue of jurisdiction, if necessary, on account of *Mangli Impex* (supra) and record separate findings. The findings with respect to the lack of jurisdiction, if any, based on the reasoning in *Mangli Impex* (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CUSAA 93/2019

COMMISSIONER OF CUSTOMS ..... Appellant
Through: Ms. K. Enatoli Sema, Advocate

versus

SUN PHARMACEUTICALS INDUSTRIES LTD ..... Respondent
Through: Mr. Karan Sachdev, Ms. Avisha Khatri, Advocate

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

O R D E R
% **27.03.2019**

1. The question urged by the appellant in this appeal 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. Mr. Karan Sachdev, Advocate appears on behalf of the respondent.

3. It is submitted, at the outset, by learned counsel for the appellant 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].

4. 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."*

5. 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 appeal. The respondent/assessee's right to contend that the show cause notice issued in this case were legally untenable, in view of the decision of this Court in *Mangli Impex* (supra), are kept intact. In other words, the Tribunal may hear the parties on the merits of the case as well as with respect to the issue of jurisdiction, if necessary, on account of *Mangli Impex* (supra) and record separate findings. The findings with respect to the lack of jurisdiction, if any, based on the reasoning in *Mangli*

Impex (supra) would be subject to final outcome of the proceedings in the Supreme Court. 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.

6. The Tribunal is directed to issue reasonable notice to the assessee for hearing the appeal before it.

7. The appeal is partly allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

MARCH 27, 2019
pkb