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$~142, 145, 148 & 153

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

\+ CUSAA 159/2019

COMMISSIONER OF CUSTOMS ..... Appellant

Through Mr. Harpreet Singh, Sr. Standing Counsel with Ms. Suhani Mathur and Mr. Ankit Singh, Advocates.

versus

SH. BIMAL KUMAR JAIN ..... Respondent

Through Mr. Naveen Malhotra and Mr. Nilansh Malhotra, Advocates.

AND

CUSAA 162/2019

COMMISSIONER OF CUSTOMS ..... Appellant

Through Mr. Harpreet Singh, Sr. Standing Counsel with Ms. Suhani Mathur and Mr. Ankit Singh, Advocates.

versus

SHRI HAR PRASAD GOYAL C/O DISHA OVERSEAS PVT. LTD., ... Respondent

Through Mr. Naveen Malhotra and Mr. Nilansh Malhotra, Advocates.

AND

CUSAA 165/2019

COMMISSIONER OF CUSTOMS ..... Appellant

Through Mr. Harpreet Singh, Sr. Standing Counsel with Ms. Suhani Mathur and Mr. Ankit Singh, Advocates.

versus

SHRI SURINDER GOYAL ..... Respondent

Mr. Naveen Malhotra and Mr. Nilansh Malhotra, Advocates.

AND

CUSAA 170/2019

COMMISSIONER OF CUSTOMS ..... Appellant

Through Mr. Harpreet Singh, Sr. Standing Counsel with Ms. Suhani Mathur and Mr. Ankit Singh, Advocates.

versus

SH. DEEPT SWARUP AGGARWAL ..... Respondent

Mr. Naveen Malhotra and Mr. Nilansh Malhotra, Advocates.

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MS. JUSTICE ASHA MENON

ORDER

% **27.08.2019**

C.M. No. 16907/2019 (exemption) in CUSAA 159/2019
C.M. No. 19854/2019 (exemption) in CUSAA 170/2019

Allowed, subject to all just exceptions.

CUSAA 159/2019 and C.M. No. 16906/2019 (delay)
CUSAA 162/2019 and C.M. No. 17662/2019 (delay)
CUSAA 165/2019 and C.M. No. 19260/2019 (delay)
CUSAA 170/2019 and C.M. No. 19853/2019 (delay)

1. With the consent of the parties, the appeals are taken up for final hearing.

2. The present appeals are directed against the orders dated 13.06.2017, 24.8.2017, 24.8.2017 and 13.6.2017 passed by the Customs Excise and Service Tax Appellate Tribunal (in short '**CESTAT**'), disposing of Customs Appeal Nos. C/338/2006, C/50467/2016, C/50468/2016 and C/335/2006, respectively filed by the respondent, remanding the matter back to the original adjudicating authority for deciding the issue of jurisdiction after

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awaiting the decision of the Supreme Court in the appeal preferred by the Union of India against the judgment of the Coordinate Bench of this Court in Mangli Impex vs. Union of India reported as **2016 (335) ELT 605 (Del.)**.

3. For passing the aforesaid order, the CESTAT has followed the order dated 25.05.2017 passed by a Coordinate Bench in **W.P.(C) 4438/2017** entitled BSNL vs. UOI & Ors.

4. By a subsequent order dated 20.11.2017, passed by another Coordinate Bench in Vipul Overseas Pvt. Ltd. vs. Commissioner of Customs reported **2018 (359) ELT 646 (Del.)** and the order dated 13.12.2017, passed by yet another Bench in **CUSAA 67/2017** entitled Forech India Pvt. Ltd. vs. Commissioner of Customs, Inland Container Depot Tuglakabad, New Delhi, in similar circumstances, the appeals were remanded to CESTAT for a fresh decision on merits, uninfluenced by the decision in the case of Mangli Impex (supra), which had since been stayed by the Supreme Court vide order dated 07.10.2016. Pertinently, the said appeal is still pending adjudication before the Supreme Court.

5. Learned counsel for the respondent has no objection if an order on similar lines, as was passed in Vipul Overseas (supra), is passed in the present appeals.

6. Accordingly, following the order passed in the case of Vipul Overseas (supra), the impugned orders dated 13.06.2017, 24.8.2017, 24.8.2017 and 13.6.2017 passed by the CESTAT are quashed and set aside. Customs Appeal Nos. C/338/2006, C/50467/2016, C/50468/2016 and C/335/2006 are restored to their original position, for the CESTAT to dispose the same afresh, uninfluenced by the decision in the case of Mangli Impex (supra).

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7. Before proceeding to decide the captioned appeals, the CESTAT shall ensure service of notice upon the respondents.

8. The present appeals are allowed and disposed of on the above terms.

HIMA KOHLI, J

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ASHA MENON, J

AUGUST 27, 2019
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