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

+ CUSAA 176/2019

PR. COMMISSIONER OF CUSTOMS (PREV.), ..... Appellant  
Through: Mr. Harpreet Singh, Advocate.

versus

SUSHANT AGRAWAL ..... Respondent  
Through: Ms. Reena Rawat, Advocate.

% Date of Decision: 13<sup>th</sup> August, 2019

**CORAM:**  
**HON'BLE MR. JUSTICE MANMOHAN**  
**HON'BLE MR. JUSTICE YOGESH KHANNA**

**J U D G M E N T**

**MANMOHAN, J: (Oral)**

**CM Appl. 21451/2019 (condonation of delay)**

Keeping in view the averments in the application, delay in filing the appeal is condoned.

Accordingly, present application stands disposed of.

**CUSAA 176/2019**

1. Present appeal has been filed under Section 130 of the Customs Act, 1962 challenging the final order No.C/A/54316/2017-CU(DB) dated 22<sup>nd</sup> June, 2017 passed by the Customs, Excise & Service Tax Appellate Tribunal, New Delhi in Customs Appeal No.C/251/2012.

2. Learned counsel for appellant states that by virtue of the impugned order the Tribunal has remanded the case to the original adjudicating authority to decide the issue of jurisdiction after awaiting the judgment of the Supreme Court in *Mangli Impex Limited vs. Union of India, 2016 (335) ELT 605 (Del)*.

3. He states that this Court in *CUSAA No.57/2017 Vipul Overseas Pvt. Ltd. vs. Commissioner of Customs & Ors.*, has set aside a similar remand order passed by the Tribunal with a direction to the Tribunal to decide the issue on merits without taking into consideration the decision in the case of *Mangli Impex* (supra), which has been stayed by the Supreme Court.

4. Learned counsel for respondent states that she has no objection if the present appeal is allowed in the aforesaid terms.

5. Consequently, with consent of parties, the impugned order No.C/A/54316/2017-CU(DB) dated 22<sup>nd</sup> June, 2017 passed by the Customs, Excise & Service Tax Appellate Tribunal, New Delhi in Customs Appeal No.C/251/2012 is set aside with a direction to the Tribunal to decide the appeal on merits including the question of jurisdiction without being influenced by the decision of this Court in *Mangli Impex* (supra).

6. With the aforesaid observation, present appeal stands disposed of.

**MANMOHAN, J**

**YOGESH KHANNA, J**

**AUGUST 13, 2019**

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