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

\+ **CUSAA 199/2019**

PR. COMMISSIONER OF CUSTOMS ..... Appellant

Through: Mr.Harpreet Singh, Senior Standing Counsel and Ms.Sonali Mathur, Advocate.

versus

M/ S. SAP INDIA PVT. LTD. ..... Respondent

Through: Mr.Kunal Kapoor and Ms. Avisha Khatri, Advocates.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

O R D E R

% **22.07.2019**

C.M.32485/2019 (Exemption)

1. Allowed, subject to all just exceptions

C.M.32484/2019 (Delay)

2. For the reasons explained in the application, the delay of 492 days in filing the appeal is condoned and the application is allowed.

CUSAA 199/2019

3. Notice. Notice is accepted by learned counsel for the Respondent. With the consent of the parties, this appeal is taken up for final hearing.

4. This appeal is directed against the impugned order dated 12th July, 2017

passed by the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) disposing of Customs Appeal C/58698/2013 filed by the Respondent by remanding the matter to the Original Adjudicating Authority to first decide the issue of jurisdiction after awaiting the judgment of the Supreme Court in the appeal filed by the Union of India in the appeal filed against the judgment of this Court in ***Mangli Impex Ltd. v. Union of India (2016)335 ELT 605 (Del)***. In passing the said order the CESTAT followed the order passed by this Court in W.P. (C) 4438 of 2017 (***BSNL v. Union of India***).

5. Subsequently by two orders dated 20th November, 2017 passed in CUSAA No. 57/2017 (***Vipul Overseas Pvt. Ltd. v. Commissioner of Customs***) and 13th December, 2017 passed in CUSAA No. 67/2017 (***Forech India Pvt. Ltd. v. Commissioner of Customs, ICD, TKD***), this Court remanded, in similar circumstances the appeals to the CESTAT for a fresh decision on merits without taking into consideration the decision of this Court in ***Mangli Impex Limited v. Union of India*** (*supra*) , since it had been stayed on 7th October 2016 by the Supreme Court in ***Union of India v. Mangli Impex Ltd. (2016) 339 ELT A 49 (SC)***.

6. Learned counsel for the Respondent has no objection if an order on the same lines as ***Vipul Overseas Pvt. Ltd. v. Commissioner of Customs*** (*supra*) is passed in the present appeal as well.

7. Accordingly, the impugned order dated 12th July, 2017 of the CESTAT is hereby set aside and Customs Appeal C/58698/2013 is restored to the file of the

CESTAT for a fresh disposal on merits without taking into consideration the decision of this Court in ***Mangli Impex Ltd. v. Union of India*** (*supra*). The CESTAT will proceed to decide the said appeal after ensuring service of notice upon the Respondent.

8. The appeal is disposed of in the above terms.

S.MURALIDHAR, J

TALWANT SINGH, J

JULY 22, 2019
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