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

\+ CUSAA 208/2019

PR. COMMISSIONER OF CUSTOMS ..... Appellant

Through: Mr. Harpreet Singh, Advocate with Ms. Suhani Mathur, Advocate

versus

M/S RELIGARE AVIATION LTD ..... Respondent

Through: Ms. Avisha Khatri, Advocate

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

O R D E R

% **02.09.2019**

C.M.Appln.34273/19 (by the appellant for condonation of delay of 377 days in filing)

1. Learned counsel for the respondent states that she does not have any objection to the delay of 377 days on the part of the appellant in filing the accompanying appeal.

2. Accordingly, the application is allowed and the delay of 377 days in filing the accompanying appeal is condoned.

3. The application is disposed of.

CUSAA 208/2019

1. Issue notice.

2. Counsel for the respondent accepts notice.

3. With the consent of the parties, the appeal is taken up for final hearing.

4. The present appeal is directed against the order dated 14.06.2017

passed by the Customs Excise and Service Tax Appellate Tribunal (in short '**CESTAT**'), disposing of Customs Appeal No.C/644/2010 filed by the respondent, remanding the matter back to the original adjudicating authority for deciding the issue of jurisdiction after 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 at **2016 (335) ELT 605 (Del.)**.

5. 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. .

6. By a subsequent order dated 20.11.2017, passed by another Coordinate Bench in Vipul Overseas Pvt. Ltd. vs. Commissioner of Customs reported at **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.

7. 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 appeal.

7. Accordingly, following the order passed in the case of Vipul Overseas (supra), the impugned order dated 21.06.2017 passed by the CESTAT is

quashed and set aside. Customs Appeal No.C/54528/2014 is restored to its original position, for the CESTAT to dispose the same afresh, uninfluenced by the decision in the case of Mangli Impex (supra).

8. Before proceeding to decide the captioned appeal, the CESTAT shall ensure service of notice upon the respondent.

9. The present appeal is allowed and disposed of in the above terms.

HIMA KOHLI, J

ASHA MENON, J

SEPTEMBER 02, 2019/s