$~27

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

Date of Decision: 20.09.2019

\+ CUSAA 218/2019

M/S SILICON CONCEPTS INTERNATIONAL PVT. LTD
..... Appellant

Through: Ms. Prinyanka Goel & Mr. A.K. Prasad, Advs.

Versus

COMMISSIONER OF CUSTOMS (IMPORT), ICD, TKD, NEW DELHI ..... Respondent

Through: Ms. Sonu Bhatnagar, Sr. Standing Counsel with Ms. Anushree Narain, Adv.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

: **D.N. PATEL, CHIEF JUSTICE (ORAL)**

CM APPL.42111/2019 *(exemption)*

Allowed, subject to all just exceptions.

The application stands disposed of.

CUSAA 218/2019

1. This appeal has been preferred against the judgment and order of CESTAT which is dated 1st August, 2019 in Customs Appeal No.50796/2019 whereby the cross-examination of two witnesses was allowed and cross-examination of rest of the two witnesses has not been allowed.

2. We have heard the counsel for both the sides and it appears that in the facts of the present case a show cause notice was served upon the appellant by Directorate of Revenue Intelligence demanding to pay differential duty.

3. During the process of adjudication of the show cause notice, cross-examination was demanded by this appellant. The same was denied and hence appeal was preferred before CESTAT.

4. Out of total four witnesses, the CESTAT allowed cross-examination of two witnesses namely Ms. N. Rashmi and Shri Amit Mallik. Cross-examination of Shri Vineet Saluja and Shri Pradeep Sharma, who are co-noticees of this appellant company, were not allowed.

5. It appears from the facts of the case that while adjudicating the show cause notice, the Commissioner of Customs might have not relied upon the statements of Shri Vineet Saluja or Shri Pradeep Sharma. The process of adjudication of the show cause notice in question is yet to be completed. As and when the show cause notice is adjudicated upon and final order in original is passed, this appellant can always challenge the said order in original *inter alia* on the ground that the cross-examination of Shri Vineet Saluja and Shri Pradeep Sharma were not allowed.

6. Shri Vineet Saluja or Shri Pradeep Sharma are co-noticees and we have expressed no opinion whether the cross-examination of these two directors should be allowed or not. As and when final order in original is passed, this appellant always have an opportunity to prefer an appeal and to challenge the order in original on one more ground of non-availability of cross-examination. Beyond this, nothing is required to be observed by this

Court. In fact, the CESTAT has not at all entertained the appeal preferred by this appellant.

7. With the aforesaid observations, this appeal is dismissed.

CHIEF JUSTICE

C.HARI SHANKAR, J

SEPTEMBER 20, 2019
ns