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

+ **W.P.(C) 4149/2018 & CM APPL. 16310/2018**

NAWAL KISHORE SINGH Petitioner
Through : **Ms. Ria Chanda, Adv.**

versus

**THE COMMISSIONER OF
CUSTOMS (EXPORTS)** Respondent
Through : **Mr. Sameer Jain, Standing
Counsel.**

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE PRATEEK JALAN

% **ORDER**
16.04.2019

The petitioner seeks a direction that its appeal against the impugned Order-in-Original be entertained without insistence on the requirement of pre-deposit of penalty – determined by the Commissioner (Customs) to the tune of Rs.3 crores.

It is urged that the petitioner is a mere employee of the Customs House Agent (M/s Continental Cargo Services) of which Mr.Bhupinder Singh was the proprietor. The statements recorded under Section 108 of the Customs Act form the basis of the adjudication culminating into the penalty of Rs.3 crores. In support of the grounds urged, the petitioner has relied upon various documents to show his constrained financial circumstances including his bank

account details and particulars; copy of the lease deed of the premises where he resides etc. The petitioner also urged that the appeal preferred by Mr.Bhupinder Singh, the proprietor of M/s Continental Cargo Services, was allowed by the CESTAT on 10.08.2018 in Customs Appeal C/50474/2018(BB).

Having considered the submissions of the parties, this court is of the opinion that in the circumstances, having regard to the financial condition of the petitioner as well as the subsequent development by which the penalty imposed upon the Customs House Agent was set aside, the petitioner's claim for relief is reasonable and ought to be granted. In these circumstances, if the petitioner prefers an appeal within four weeks from today, the CESTAT shall proceed to hear it on its merits uninfluenced on the question of limitation and without requiring pre-deposit of any amount in the facts and circumstances of the case. All rights and contentions of the parties are reserved.

This writ petition is allowed in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

APRIL 16, 2019

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