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

+ W.P.(CRL) 960/2018 and CRL.M.A. 5948/2018 (stay)

DEEPAK DHEMLA Petitioner

Through: Mr. Mohinder Madan, Advocate with
petitioner in person

Mob. No.9868809596

versus

STATE & ORS.

..... Respondents

Through

Mr. Rahul Mehra, St. Counsel (Crl.) for the State

Mr. Satish Aggarwala, Advocate for R3.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **07.03.2019**

1. Despite repeated opportunities granted to the respondent No.3 to file a reply to the affidavit filed by the petitioner, no reply has been filed so far.
2. Mr. Satish Aggarwala, learned counsel for the respondent No.3 states that repeated reminders have been given to the Department but they have not reverted back with any instructions.
3. Mr. Mohinder Madan, learned counsel for the petitioner states that the impugned order challenged by the petitioner was passed by the Dy. Secretary (Home) GNCTD as long back as on 28.09.2001 directing that the petitioner be detained and kept in custody. He submits that the said order is liable to be quashed for the reason that the appeal preferred by the co-accused, Rajesh Gulati challenging his detention pursuant to an order dated 28.09.2001, passed under Section 3(1) of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 was allowed by the Supreme Court as long back as on 29.08.2002. He states that vide order

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dated 28.06.2007 passed by Joint Secretary, Department of Revenue, Ministry of Finance, Government of India, a revision application filed by the petitioner against an order dated 12.01.2007 passed by the Commissioner of Customs (Appeals), New Delhi, was allowed and the order imposing penalty on the petitioner was set aside on the ground that he had neither admitted his involvement in the case, nor was his involvement proved by the Department through other corroborative evidence.

4. In reply, Mr. Aggarwala, learned counsel for the respondent No.3 seeks to rely on the counter affidavit dated 18.09.2018 and states that merely because the impugned order has not been executed since the year 2001, does not mean that it has lost its utility and that this is a case where the petitioner has been absconding and was finally declared as a proclaimed offender by the learned CMM vide order dated 04.08.2006.

5. We have enquired from the learned counsel for the petitioner as to whether the petitioner possesses a passport. He states on instructions that the passport that was issued to the petitioner had expired and he had not applied for a fresh passport thereafter. An affidavit on the said lines shall be filed by the petitioner within one week with a copy to the counsel for the respondent No.3.

6. List for consideration on 01.04.2019.

7. Interim orders to continue.

HIMA KOHLI, J

MANOJ KUMAR OHRI, J

MARCH 07, 2019/na
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