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

+ **W.P.(C) 10326/2018**

VIKAS KALRA

..... Petitioner

Through: **Mr.Kotla Harshvardhan, Advocate**

versus

DEPUTY COMMISSIONER (RECOVERY)

..... Respondent

Through: **Ms.K.Enatoli Sema, Advocate**

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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08.01.2019

CM APPL.479/2019 (delay in filing the counter affidavit)

For the reasons stated in the application, the delay of 48 days' in filing the counter affidavit is condoned and the same is taken on record.

The application is disposed of.

W.P.(C) 10326/2018

1. By consent of learned counsel for the parties, the writ petition is taken up for hearing.
2. The petitioner's grievance in this writ petition is with respect to the recovery notice dated 23.02.2018, issued by the respondent/customs department, claiming ₹3 lakhs towards customs duty payable. The petitioner contends that on 26.02.2014, the office of the Director General of Foreign Trade (DGFT) has stated that the petitioner had discharged its export obligation and had, therefore, waived off the bond furnished by it.

3. After notice was issued, respondents were granted time to file the counter affidavit, which is now on record. In the counter affidavit the customs authorities *inter alia* state that they are willing to grant an opportunity to the petitioner herein with respect to its liability, if any, as regards payment of customs duty, which is sought to be recovered in the impugned notice.
4. In view of the statement made in the counter affidavit, this Court is of the view that the petition ought to succeed on that ground. The order –in-original dated 11.03.2014 and the impugned notice are hereby set aside. The respondent shall grant an opportunity of hearing to the petitioner, for the purposes of which sufficient notice of hearing would be given to it. After considering the submissions of the petitioner, the adjudicating officer should pass a reasoned order in accordance with law.
5. Consequently the amounts deposited by the petitioner shall be treated in satisfaction of the part deposit of the amount demanded.
6. The writ petition is partly allowed in the above terms. The impugned recovery notice dated 09.04.2014 and the order in original dated 11.03.2014 is set aside.
7. The date fixed for listing of the writ petition i.e. 27th February, 2019, is cancelled.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

JANUARY 08, 2019

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