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

\+ CUSAA 303/2018

PRO COMMISSIONER OF CUSTOMS (PREV) ..... Appellant

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

versus

VIKRAM BHATIA (MONA SALES) ..... Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 05.11.2019

1. Despite waiting for over 15 minutes, none has appeared for the respondent. We accordingly have no option but to proceed with the matter.

2. The writ petition was disposed of on 18.12.2018, thereafter the respondent moved C.M. No. 24446/2019 for recall of the order dated 18.12.2018. Vide order dated 02.08.2019 the application for recall was allowed and the appeal was directed to be listed for hearing. The plea of the respondent which led to the order dated 18.12.2018 being recalled was that since the appeal concerns valuation, the same is not maintainable under Section 130 of the Customs Act.

3. We have accordingly heard Mr. Harpreet Singh, learned counsel for the appellant on the said aspect. Mr. Singh points out that

under Section 130 of the Customs Act, an appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal on or after the 1st day of July, 2003 not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment, if the High Court is satisfied that the case involves a substantial question of law. Mr. Singh submits that the impugned order does not relate to the determination of any question having a relation to the rate of duty of customs or to the value of goods for the purposes of assessment.

4. We find merit in the submission of Mr. Singh. We have perused the impugned order and all that the impugned order does is to remand the matter to the original adjudicating authority to decide the issue of jurisdiction after the Supreme Court decision in the case of *Mangli Impex Limited Vs. Union of India* is rendered and then proceed on merits by providing opportunity to the assessee of being heard. In the light of the aforesaid, we dispose of the present appeal in terms of the decision given in the order dated 18.12.2018.

5. The Tribunal shall proceed in the matter after issuing fresh notices to the parties.

VIPIN SANGHI, J

SANJEEV NARULA, J

NOVEMBER 05, 2019
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