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

Date of decision: 21st October, 2019

\+ W.P.(C) 12292/2018

MUNJAL SHOWA LTD. & ANR. ..... Petitioners

Through: Mr. Arshad Hidaytullah, Sr. Advocate with Mr. Jitendra Singh and Mr. P.K. Ram, Advs.

versus

UNION OF INDIA & ORS. ..... Respondents

Through: Mr. Vinod Diwakar, CGSC with Mr. Abhishek Bhati and Mr. Vishal Singh, Advs. for respondent no. 1

Ms. Sonu Bhatnagar, Sr. Standing Counsel with Mr. Vaibhav Joshi, Ms. Anushree Narain and Ms. Venus Mehrotra, Advs. for respondent nos. 2 and 3

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

ORDER

% **21.10.2019**

D.N. PATEL, CHIEF JUSTICE (ORAL)

1. This writ petition has been preferred against the order in original passed by the Assistant Commissioner of Customs dated 3rd October, 2018 (Annexure P-1 to the memo of this writ petition).

2. Having heard counsel for the petitioners and looking to the facts and circumstances of the case, we see no reason to entertain this writ petition for the following reasons:-

(a) In the facts of the present case, the bill of entry was filed by the petitioners vide bill entry no. 6871161 dated 20th June, 2018 under Section 17(1) of the Customs Act, 1962.

(b) There is a dispute regarding classification of the goods imported.

(c) After giving a show cause notice, the same was adjudicated upon by the Assistant Commissioner of Customs and the operative part of the order dated 3rd October, 2018 (Annexure P-1) to the memo of this writ petition reads as under:-

> *"I reject the self-assessment done by the importer in respect of Bill of Entry No. 6871161 dated 20.06.2018 under Section 17(1) of the Customs Act,1962 w.r.t . classification of the goods under tariff item 8714 91 00 and reassess the same under tariff item 8714 10 90 under Section 17(4) of the Customs Act, 1962.*

(d) Thus, the aforesaid order is an appealable order under the provisions of the Customs Act, 1962. Hence, there exists an efficacious alternative remedy.

(e) By no stretch of imagination, it can be said that the order passed by the Assistant Commissioner of Customs is without any jurisdiction nor there is any violation of principles of natural justice while passing the aforesaid order.

3. Much has been argued out by the counsel for petitioners on merits, as well as on the applicability of the exemption notification and attention is also drawn to the fact that since last seven years they are importing goods and are classified as stated in the memo of this writ petition. Be that as it may, we are not inclined to adjudicate on the merits of the matter as impugned order is an appealable order and a statutory appeal is

provided under Section 128 of the Customs Act, 1962 before the appellate forum.

4. Hence, there is no substance in this writ petition and the same is, therefore dismissed on the ground of availability of efficacious alternative remedy. However, as and when statutory appeal is filed, the same will be decided on its merits, in accordance with law and on the basis of the evidence on record without being influenced from the order passed by this Court in this writ petition.

CHIEF JUSTICE

C.HARI SHANKAR, J.

OCTOBER 21, 2019
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