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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ C.M.APPL.54241/2018 & 2880/2019 IN W.P.(C) 13105/2018
VIJAY CHAUHAN & ANR. Petitioners
Through : Dr. Ashutosh and Ms. Fatima,
Advocates.

versus

COMMISSIONER OF CUSTOMS (EXPORT) Respondent
Through : Appearance not given.

CORAM:

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

% **ORDER**
23.01.2019

The petitioners urge that the principles of natural justice were not followed by the Joint Commissioner, who adjudicated the Show Cause Notice dated 31.03.2017 in respect of consignments of garments which the Customs authorities alleged, were over-invoiced, to claim fraudulent and ineligible drawbacks. The petitioners contend that they were not granted personal hearings inasmuch as intimation of hearing was sent to addresses other than where they resided.

During the course of proceedings, the petitioners have filed additional affidavits which *prima facie* indicate that they are not possessed of sufficient means. The first petitioner is an employee working as a driver whereas the second petitioner is a roadside tea vendor.

Having regard to the circumstances, the Court is of the opinion that in the interest of justice, the petitioners should urge all grounds available to them, including the issue of lack of opportunity and all grounds relating to that, in the appeal to the Commissioner. In case the appeals are filed within three weeks from today, the same shall be heard on merits and shall not be dismissed on the ground of limitation. Furthermore, the Court is of the opinion that in the peculiar circumstances of the case, the requirement of pre-deposit of 7.5% of the sum demanded should be entirely waived and not insisted upon. In other words, the appeals to the Commissioner shall be heard on the merits; the requirement of depositing the amounts shall stand waived. The petitions are disposed of in the above terms. The date previously fixed is hereby cancelled.

Order *dasti*.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

JANUARY 23, 2019/ajk