$~34

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

\+ CUSAA 44/2019 & C.M. No.2653-54/2019

COMMISSIONER OF CUSTOMS ..... Appellant

Through Mr. Harpreet Singh, Sr. Standing Counsel with Ms. Suhani Mathur, Advocate for Appellant in Items No.15, 16, 61 & 62.
Mr. Amith J. Adv. with Mrs. K. Enatoli Sema, Adv. for Appellant in items No.34, 36, 40 & 50.

versus

PANCHSHEEL SOAP FACTORY ..... Respondent

Through None.

**CORAM:**
**HON'BLE MS. JUSTICE HIMA KOHLI**
**HON'BLE MS. JUSTICE ASHA MENON**

**<u>O R D E R</u>**

% **28.02.2020**

1. Despite service, none is present on behalf of the respondent even today. It is assumed that the respondent does not wish to oppose the prayer made in the present appeal.

2. The present appeal is directed against the order dated 27.07.2017 passed by the Customs Excise and Service Tax Appellate Tribunal (in short '**CESTAT**'), disposing of Customs Appeal No. C/54420/2014 filed by the respondent, remanding the matter back to the original adjudicating authority for deciding the issue of jurisdiction after awaiting the decision of the Supreme Court in the appeal preferred by the Union of India against the judgment of the

Coordinate Bench of this Court in Mangli Impex vs. Union of India reported as **2016 (335) ELT 605 (Del.)**.

3. For passing the aforesaid order, the CESTAT has followed the order dated 25.05.2017, passed by a Coordinate Bench in **W.P.(C) 4438/2017** entitled BSNL vs. UOI & Ors.

4. By a subsequent order dated 20.11.2017, passed by another Coordinate Bench in Vipul Overseas Pvt. Ltd. vs. Commissioner of Customs reported **2018 (359) ELT 646 (Del.)** and the order dated 13.12.2017, passed by yet another Bench in **CUSAA 67/2017** entitled Forech India Pvt. Ltd. vs. Commissioner of Customs, Inland Container Depot Tuglakabad, New Delhi, in similar circumstances, the appeals were remanded to CESTAT for a fresh decision on merits, uninfluenced by the decision in the case of Mangli Impex (supra), which had since been stayed by the Supreme Court vide order dated 07.10.2016. Pertinently, the said appeal is still pending adjudication before the Supreme Court.

5. Accordingly, following the order passed in the case of Vipul Overseas (supra), the impugned order dated 27.07.2017 passed by the CESTAT is quashed and set aside. Customs Appeal No. C/54420/2014 is restored to its original position, for the CESTAT to dispose the same afresh, uninfluenced by the decision in the case of Mangli Impex (supra).

6. Before proceeding to decide the captioned appeal, the CESTAT shall ensure service of notice upon the respondent.

7. The present appeal is allowed and disposed of on the above terms alongwith the pending application.

**HIMA KOHLI, J**

**ASHA MENON, J**

**FEBRUARY 28, 2020**
pkb