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

+ **W.P.(C) 3693/2020**

M/S LCL LOGISTIX (INDIA) PVT LTD Petitioner

Through: Mr.Balbir Singh, Sr.Advocate with
Mr.Rupender Sinhmar,
Mr.K.Gurumurthy, Mr.Shyam Gopal
and Mr.Prahlad Singh, Advocates.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr.Amit Bansal, Advocate.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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23.06.2020

HEARD THROUGH VIDEO CONFERENCING.

C.M. Nos.13216/2020, 13217/2020 & 13218/2020 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 3693/2020 & C.M. No.13215/2020 (Int. Injunction)

1. The petitioner company based in Mumbai, has filed the present respondent No.1/Ministry of Finance, Union of India; respondent No.2/Central Board of Indirect Taxes and Customs; respondent No.3/Commissioner of Customs, Kolkata, West Bengal and respondent No.4/Addl. Commissioner of Customs, Kolkata, West

Bengal, praying *inter alia* that the cost recovery charges of the custom staff posted at CFS, Haldia, West Bengal, be waived and in the alternative, a direction be issued to the respondent No.4 to recall a communication dated 18.02.2016, refusing to grant waiver of cost recovery charges requested by the petitioner.

2. At the outset, we have requested Mr.Balbir Singh, Sr.Advocate appearing for the petitioner to address us on the maintainability of the present petition in this court when the relief is primarily directed against the respondent Nos. 3 and 4, both based in Kolkata. Another aspect that is weighing with this court is the fact that aggrieved by the judgment dated 07.09.2018 passed by a Division Bench of this court in WP(C) No. 9376/2018 filed by the petitioner wherein it had unsuccessfully challenged the constitutional validity of imposition of cost recovery charges by the respondent and thereafter, filed an appeal against the said judgment before the Hon'ble Supreme Court in SLP No.2203/2019 which is pending adjudication. We have therefore expressed our reservations on entertaining the present petition.

3. At this stage, Mr.Balbir Singh, Sr.Advocate appearing for the petitioner states on instructions that the petitioner may be permitted to withdraw the present petition while reserving its right to seek recourse before the High Court of Calcutta.

4. Leave as prayed for is granted. The present petition is disposed of along with the pending application. However, we make it clear that we have refrained from making any observations on the merits of the present petition, or the objections taken by learned counsel for the

respondents.

5. Parties shall be at liberty to take all the pleas that may be available to them, both on facts and law before the competent court vested territorial jurisdiction.

HIMA KOHLI, J

SUBRAMONIUM PRASAD, J

JUNE 23, 2020

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