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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 23.01.2024

+ CUSAA 4/2024

COMMISSIONER OF CUSTOMS ACC
IMPORT NEW DELHI

..... Appellant

versus

M/S KAJARIACEREMICS LTD

..... Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Harpreet Singh, Senior Standing Counsel.

For the Respondent: Mr. Prashant Srivastava, Advocate

CORAM:-**HON'BLE MR. JUSTICE SANJEEV SACHDEVA****HON'BLE MR. JUSTICE RAVINDER DUDEJA****JUDGMENT****SANJEEV SACHDEVA, J. (ORAL)****CM APPL. 4054/2024 (exemption)**

Allowed, subject to all just exceptions.

CM APPL. 4055/2024 (condonation of delay)

1. The present application has been filed under Section 130(2A) of the Customs Act, 1962 seeking condonation of delay of 2267 days in filing the present appeal.

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2. Learned counsel for the respondent submits that since identical issue has been decided in a batch of appeals, he has no objection to the application being allowed.

3. For the reasons stated in the application, the application is allowed and the delay of 2267 days in filing the present appeal stands condoned.

4. The application is disposed of.

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5. Issue notice. Notice is accepted by learned counsel appearing for the respondent.

6. With the consent of the parties, appeal is taken up for final disposal today.

7. Mr. Singh has drawn our attention to the order dated 28.03.2022 passed in a batch of appeals, the lead appeal being CUSAA 20/2021, titled: Pr. Commissioner of Customs vs. Kunal Lalani, passed by a co-ordinate Bench.

8. Mr. Singh submits that via the said judgment, the aforesaid appeal and the connected appeals had been remitted to the Customs, Excise & Service Tax Appellate Tribunal [in short “Tribunal”] after setting aside the impugned order.

9. It is also submitted, that the Court had directed the Tribunal to decide the matters on merits, having regard to the fact that the challenge to the jurisdiction of the adjudicating authority, based on the



judgment of a Division Bench of this Court rendered in Mangli Impex Limited v. Union of India 2016 (335) ELT 605 (Del.) has been stayed by the Supreme Court.

10. Issue notice. Mr. Prashant Srivastava, Advocate accepts notice on behalf of the respondent. Mr. Srivastava submits that he would have no objection, if a similar direction is issued in the instant matter.

11. Accordingly, the delay in filing the appeal is condoned.

12. The impugned order dated 07.07.2017 passed by the Tribunal is set aside.

13. The Tribunal is directed to decide the matter, one way or other, on merits.

14. Thus, in effect, the directions contained in the judgment dated 28.03.2022 shall apply mutatis mutandis to this matter as well, as the question of law framed in the appeal, is identical. [See paragraph 3 of the appeal].

15. Needless to add, the decision on merits will be subject to the outcome of the decision in Mangli Impex Limited pending adjudication in the Supreme Court.

16. The appeal is disposed of in the aforesaid terms.

SANJEEV SACHDEVA, J

JANUARY 23, 2024
'rs'

RAVINDER DUDEJA, J

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