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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 16358/2023

NAVSHAKTI INDUSTRIES PVT LTD

..... Petitioner

Through: Mr. TPS Kang and Mr. Sameer
Kaushik, Advocates.

Versus

UNION OF INDIA AND OTHERS

..... Respondent

Through: Mr. Aakarsh Srivastava, Standing
Counsel with Mr. Vaibhav Gupta,
Advocate for R-2 and R-3.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

06.03.2024

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CM APPL.14047/2024

1. This is an application on behalf of the petitioner seeking amendment of the petition.
2. Since notice has not yet been issued, amendment application is allowed. Amended petition is taken on record.

W.P.(C) 16358/2023 & CM APPL. 65799/2023

3. Petitioner impugns Show Cause Notice dated 23.07.2002. Learned counsel for petitioner submits that the respondents cannot adjudicate on the Show Cause Notice dated 23.07.2002 as it has become barred by time.

W.P.(C) 16358/2023

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4. This is disputed by learned counsel for respondents, who appears on advance notice and submits that the Show Cause Notice dated 23.07.2002 was initially disposed of by Adjudication Order dated 31.08.2006 against the petitioner. On an appeal by petitioner, Custom Excise and Service Tax Appellate Tribunal (CESTAT) by order dated 01.07.2010 remanded the matter. Thereafter, by another order-in-original dated 24.12.2013, the Show Cause Notice was decided against the Department. He submits that the Department had preferred an appeal before the CESTAT being Custom C/52193/2014-CU (DB). Learned counsel submits that the appeal was allowed in favour of the Department, against which petitioner first filed CUSAA 63/2017 before this Court, which was dismissed on 05.12.2017. Said order was taken up in appeal to the Supreme Court by the petitioner in Civil Appeal 4605/2018.

5. Learned counsel submits that the said appeal has been decided on 22.08.2023 by the Supreme Court by remitting the matter to the Tribunal for reconsideration of the appeal in accordance with law.

6. Learned counsel for respondents submits that the present petition would not be maintainable and objections, if any, have to be taken in the appeal pending before the CESTAT.

7. Learned counsel for petitioner accordingly seeks leave to withdraw the petition, reserving the right of the petitioner to take all permissible objections in law with regard to the appeal including the objection of limitation.



8. Petition is dismissed as withdrawn. All rights and contentions of the parties are reserved.
9. Order *dasti* under signature of the Court Master.

SANJEEV SACHDEVA, J

MARCH 6, 2024/NA

RAVINDER DUDEJA, J