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

\+ **W.P.(C) 2602/2025 & CM APPL. 28407/2025**

M/S MITTAL IMPEX .....Petitioner

Through: Mr. Vikas Sareen and Mr. Akhil Krishan Maggu, Advocates.

versus

PRINCIPAL COMMISSIONER OF CUSTOMS-IMPORT INLAND CONTAINER DEPOT TUGHLAKABAD, NEW DELHI & ANR. .....Respondents

Through: Sh. Atul Tripathi, SSC, CBIC, Mr. Shubham Mishra and Mr. Gaurav Mani Tripathi, Advocates.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

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

% 21.05.2025

1. This hearing has been done through hybrid mode.

2. The present petition has been filed on behalf of the Petitioner-M/s Mittal Impex under Article 226 of the Constitution of India *inter alia* seeking release of 11 bank guarantees to the tune of Rs. 4,60,78,497/- which are stated to have been submitted by the Petitioner in the year, 2018 to the Respondents for provisional release of its goods.

3. A brief background of the present case is that the goods of the Petitioner were detained by the Respondent No. 1 on an allegation that the Petitioner is intending to import complete television sets but is still seeking to avail the benefit of exemption notification No. 50/2017 dated 30th June, 2017.

4. According to the Petitioner, from December, 2015 to February, 2018 the Petitioner filed various bills of entry in respect of import of television parts with the Custom Authorities. The stand of the Customs Department is that these were complete television sets in Semi Knock Down *('SKD')* condition and not merely parts. Thus, the Customs Department had seized the goods in the year 2018.

5. Vide letter dated 5th April, 2018, the provisional release was allowed by the Customs Department, subject to the Petitioner furnishing 11 bank guarantees to the tune of Rs. 4,60,78,497/-. Thereafter, in 2018 the Petitioner had submitted the bank guarantees. A Show Cause Notice was issued on 7th February, 2020 and the Order-in-Original was passed on 04th February, 2022. The operative portion of the said order reads as under:

> *" **ORDER***
>
> ***(A) IN RESPECT OF MITTAL IMPEX (NOTICEE NO.1)***
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> *(i) The declared classification under CTH 85299090 of the goods imported under 28 Bills of Entry(as detailed in Para 17 of the SCN) and declared as Parts and Panels of LED TVs is rejected and is re-classified as complete sets of LED TVs (in SKD condition) under sub-heading CTH 85287211, 85287212 and 85287213, (depending on the screen size).and the benefit of Exemption Notification No. 50/2017-Cus is denied.*
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> *(ii) The declared value of Rs. 17,74,08,803/- in the Bills of Entry_ (as· detailed in Annexure A of the SCN) is rejected under Rule 1 i of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 read with Section 14 of the Customs Act, 1962 and the transaction value is redetermined to Rs. 37,98,45,455/- (as detailed in Annexure A of the SCN) under Customs Valuation Rules, 2007 rend with Section 14(1) of the Customs Act, 1962.*
>
> *(iii) The Goods imported vide Bills of Entry (Annexure Al and A2 of Annexure A of the SCN), seized vide Seizure Memo dated 05.03.2018 re-assessed at Rs. 8,85,90,372/- and subsequently*

released provisionally vide order dt. 05/04/2018, is confiscated under Section 111 (m) of the Customs Act, 1962. However, I give an option to redeem the goods on redemption fine of Rs.1,00,000,00/- (Rupees One Crore only) under Section 125 of the Customs Act, 1962.

iv) The Goods seized vide Seizure Memo dated 17.01.2018 at the office WZ-197, Khyala Village, New Delhi re-assessed at Rs. 33,52,150/- and provisionally __ released vide order dt. 11/05/2018 is confiscated under Section 111 (m) of the Customs Act, 1962. However, I give an option to redeem the goods on redemption fine of Rs:4,00,000/- (Rupees Four Lakhs only) under Section 125 of the Customs Act, 1962.

(v) The remaining Goods with re-determined value at Rs. 29,12,55,083/- imported vide Bills of Entry (Annexure A3 and A4 of Annexure A of the SCN) is confiscated under Section 111 (m) of the Customs Act, 1962. However, I refrain from imposing any redemption fine for the reason discussed above.

(v) I refrain from imposing any Penalty upon M/s Shigura Devices & Systems Pvt. Ltd, New Delhi under the provisions of Section 112 of the Customs Act, 1962.

(vi) I impose a penalty of Rs.1, 18,07,525 /- (Rupees One Crore Eighteen Lakhs Seven Thousand Five Hundred Twenty-Five only) upon M/s Shigura Devices & Systems Pvt. Ltd, New Delhi under the provisions of Section 114A of the Customs Act, 1962.

(vii) I impose a penalty ofRs.80,00,000/- (Rupees Eighty Lakhs only) upon M/s Shigura Devices & Systems Pvt. Ltd, New Delhi under the provisions of Section 114AA of the Customs Act, 1962.

(C) IN RESPECT OF SH. DINESH KUMAR VERMA, DIRECTOR OF M/S SHIGURA DEVICES & SYSTEMS PVT. LTD., NEW DELHI (NOTICEE NO.3)

(i) I impose a penalty of Rs.10,00,000/-(Rupees Ten Lakhs only) upon Sh. Dinesh Kumar Verma, Director of M/s Shigura Devices & Systems Pvt. Ltd., New Delhi under the provisions of Section 112(a) of the Customs Act, 1962.

(ii) I impose a penalty of Rs.25,00,000/- (Rupees Twenty-Five Lakhs) upon Sh. Dinesh Kumar Verma, Director of M/s Shigura Devices & Systems Pvt. Ltd., New Delhi under the provisions of

Section 114AA of the Customs Act, 1962."

6. This order was challenged before CESTAT. The Tribunal has, however, set aside the Order in- Original on 18th November, 2024, in the following terms:

> *9.2 The appellants, admittedly, have all the necessary permissions to carry out manufacturing as well as assembling of all the local products in his warehouse. The GST Certificate, BIS Certificate, ITR Returns of last 3 years, MSME Registration Certificate, Pollution Certificate, Factory Licenses MCD, Procedure of BIS Making were also duly submitted by the appellant. Thus every fact was already in the knowledge of the department. These observations are sufficient for us hold that there is no mala fide nor any mis-declaration found on part of the appellant. There is no evidence by the department that the consignments in question have different goods than those which were imported in the year 2016. The burden of proving the allegations was upon the revenue.*
> *9.3 In the light of above discussion, we hold that the extended of limitation has wrongly been invoked. Show cause notice itself is held barred by time. This issue also stands decided in favour of the appellant and against the department.*
> *10. In the totality of the discussion on all five issues, we hold that appellant is entitled for the duty exemption benefit of Notification No. 50/2017. There is no evidence of alleged mis-declaration and undervaluation. The order imposing penalties is also not sustainable. Accordingly, the order under challenge confirming differential demand and imposing penalties on three of the appellant is hereby set aside. Consequent to entire above discussion, the appeals are hereby allowed.*

7. According to the Petitioner, no appeal has been filed in respect of the said order of CESTAT. Hence, the Petitioner is entitled to release of the 11 bank guarantees.

8. Ld. Counsel for the Department has sought instructions in this matter. Mr. Tripathi, ld. Counsel submits that the order of the CESTAT has now been

accepted by the Department and the Department is willing to release the bank guarantees.

9. In view of the above stand taken, let the original bank guarantees be released to the Petitioner within a period of four weeks from now.

10. The next date stands cancelled. The matter is disposed of with all pending application(s), if any.

PRATHIBA M. SINGH, J

RAJNEESH KUMAR GUPTA, J

MAY 21, 2025/*da/rks*