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

\+ CUSAA 15/2026 & CM APPL. 12273/2026

THE PRINCIPAL COMMISSIONER OF CUSTOM .....Appellant

Through: Sh. Atul Tripathi, SSC, CBIC with Mr. Shubham Mishra, Mr. Gaurav Mani Tripathi, Mr. Akshay Sagar and Mr. Madhav Anand, Advocates

versus

M S CELKON IMPEX PVT LTD. .....Respondent

Through: *Nemo*

CORAM:
HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE AJAY DIGPAUL

ORDER

% **23.02.2026**

CM APPL. 12272/2026 *(Exemption)*

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed of accordingly.

CUSAA 15/2026 & CM APPL. 12273/2026

3. Heard.

4. The crux of the factual matrix which warrant consideration of this appeal can be captured from para 7 of the order passed by the Customs, Excise & Service Tax Appellate Tribunal, New Delhi (***'CESTAT'***), which reads thus:-

> *"7 . The appellant, during the relevant period, was engaged in import of 'Mobile Phones'. In terms of the notification dated 17.03.2012, the Additional Duty of Customs was*

leviable at 1% under entry no. 263A for importing 'Mobiles Phones' provided Condition No. 16 was satisfied. Condition No. 16 provides that for an assessee to claim lesser 1% Additional Duty, it should not have taken credit under rule 3 or rule 13 of the CENVAT Credit Rules 2004 in respect of the inputs or capital goods used in the manufacturer of these goods."

5. It is the case of the appellant-Revenue that the indulgence is shown by the CESTAT after lapse of more than a period of 7 years and the reasonable period in any eventuality cannot be more than 3 years for the purpose of rectification.

6. If we appreciate the aforesaid contention, we can very well notice that though the respondent was entitled for 1% of less custom duty, still he has paid the same and has not taken note of the benefit available under the Notification dated 17^{th} March, 2012.

7. No doubt, the respondent might have paid the additional duty which otherwise he is not liable, but equally the appellant-Revenue is duty bound to conduct and implement the very mandate of Notification dated 17^{th} March, 2012.

8. The Revenue has accepted the duty, which in law, they are otherwise not entitled to.

9. In that view of the matter, the question of law which is sought to be canvassed in the form of issue of limitation, in our opinion, does not warrant any consideration as there is a corresponding duty on the appellant also to ensure that they should not receive the duty, which otherwise in law they are not entitled to.

10. That being so, the appeal lacks merits and stands dismissed

accordingly.

11. Let the claim of the respondent be processed within reasonable period and in any case within a period of three months from today in accordance with law.

NITIN WASUDEO SAMBRE, J

AJAY DIGPAUL, J

FEBRUARY 23, 2026/*ay/ok*