

IN THE HIGH COURT OF DELHI
CUSAA 191/2019
COMMISSIONER OF CUSTOMS, (IMPORT)
Vs
FOX INTERNATIONAL

S Muralidhar & Asha Menon, JJ

Dated: May 28, 2019

Appellant Rep by: Mr Harpreet Singh, Sr. Standing Counsel
Respondent Rep by: Mr Akhil Krishan Maggu, Mr Vikas Sareen,
Adv.

**Cus - The appeal is directed against impugned order dated 7th July 2017 passed by CESTAT disposing of appeal filed by the Respondent by remanding the matter to the Original Adjudicating Authority to first decide the issue of jurisdiction after awaiting the judgment of Supreme Court in the appeal filed by Union of India in the appeal filed against judgment of this Court in *Mangli Impex Ltd. 2016-TIOL-877-HC-DEL-CUS* - In view of decision in case of *Vipul Overseas Pvt. Ltd. 2017-TIOL-2478-HC-DEL-CUS*, the impugned order dated 7th July 2017 of CESTAT is hereby set aside and appeal is restored to the file of CESTAT for a fresh disposal on merits without taking into consideration the decision of this Court in *Mangli Impex Ltd.:*
HC**

Appeal disposed of

Case laws cited:

Mangli Impex Ltd. v. Union of India - 2016-TIOL-877-HC-DEL-CUS... Para 3

W.P. (C) 4438 of 2017 (BSNL v. Union of India)... Para 3

Vipul Overseas Pvt. Ltd. v. Commissioner of Customs - 2017-TIOL-2478-HC-DEL-CUS... Para 4

13th December, 2017 passed in CUSAA No. 67/2017 (Forech India Pvt. Ltd. v. Commissioner of Customs, ICD, TKD)... Para 4

7th October 2016 by the Supreme Court in Union of India v. Mangli Impex Ltd. (2016) 339 ELT A 49 (SC)... Para 4

JUDGEMENT

CM Appl. 25283 and 25284/2019 (condonation of delay in filing and refiling the appeal)

1. For the reasons explained in the application, the delay in filing and refiling the appeal is condoned. The applications are allowed.

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2. Notice. Notice is accepted by learned counsel for the Respondent. With the consent of the parties, this appeal is taken up for final hearing.

3. This appeal is directed against the impugned order dated 7th July 2017 passed by the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) disposing of Customs Appeal C/50117/2016 filed by the Respondent by remanding the matter to the Original Adjudicating Authority to first decide the issue of jurisdiction after awaiting the judgment of the Supreme Court in the appeal filed by the Union of India in the appeal filed against the judgment of this Court in *Mangli Impex Ltd. v. Union of India* (2016) 335 ELT 605 (Del) = **2016-TIOL-877-HC-DEL-CUS. In passing the said order the CESTAT followed the order passed by this Court in *W.P. (C) 4438 of 2017 (BSNL v. Union of India)*.**

4. Subsequently by two orders dated 20th November, 2017 passed in CUSAA No. 57/2017 (*Vipul Overseas Pvt. Ltd. v. Commissioner of Customs*) = **2017-TIOL-2478-HC-DEL-**

CUS and 13th December, 2017 passed in CUSAA No. 67/2017 (*Forech India Pvt. Ltd. v. Commissioner of Customs, ICD, TKD*), this Court remanded, in similar circumstances the appeals to the CESTAT for a fresh decision on merits without taking into consideration the decision of this Court in *Mangli Impex Limited v. Union of India (supra)*, since it had been stayed on 7th October 2016 by the Supreme Court in *Union of India v. Mangli Impex Ltd. (2016) 339 ELT A 49 (SC)*.

5. Learned counsel for the Respondent has no objection if an order on the same lines as *Vipul Overseas Pvt. Ltd. v. Commissioner of Customs (supra)* is passed in the present appeal as well.

6. Accordingly, the impugned order dated 7th July 2017 of the CESTAT is hereby set aside and Customs Appeal C/50117/2016 is restored to the file of the CESTAT for a fresh disposal on merits without taking into consideration the decision of this Court in *Mangli Impex Ltd. v. Union of India (supra)*. The CESTAT will proceed to decide the said appeal after ensuring service of notice upon the Respondent.

7. The present appeal is disposed of in the above terms.