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

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*Date of Decision: 29<sup>th</sup> October, 2021*

+ **W.P.(C) 12313/2021**

**M/S VERONICA FASHIONS PVT LTD  
AND ANR.**

..... Petitioners

Through: **Mr.Shubham Tyagi and Ms.Navruti  
Ojha, Advocates**

Versus

**THE ADDITIONAL SECRETARY (REVISIONARY  
AUTHORITY) & ANR.**

..... Respondents

Through: **Mr. Rajesh Gogna, Central  
Government Standing Counsel with  
Mr.Himanshu Pathak, Advocate for  
R-1&2.**

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**JUDGMENT**

**D.N. PATEL, CHIEF JUSTICE (ORAL)**

Proceedings have been conducted through video conferencing.

**CM APPL. 38742/2021(Exemption)**

Allowed, subject to all just exceptions.

Application stands disposed of.

**W.P.(C) 12313/2021**

1. Present writ petition has been preferred seeking the following reliefs:

*“(1) Issue a writ of certiorari / Mandamus or any other  
appropriate writ / order / direction thereby quashing the*

*impugned order dated 21/10/2021 passed by the Respondent No. 1 regarding rejection of revision application for want of mandatory pre-deposit.*

*(2) Issue a writ of certiorari / Mandamus or any other appropriate writ / order / direction thereby quashing the impugned order-in-Appeal dated 16/02/2018 passed by the Respondent No. 2 regarding rejection of Appeal for want of mandatory pre-deposit, and having regard to pre-deposit made the matter be remanded back to respondent No.2 to hear the Appeal on merits.*

*(3) Issue any other appropriate writ order and or direction that this Hon'ble court deems fit and proper in the facts and circumstances of the case.*

*(4) Award costs of the petition to the petitioners.*

*(5) Pass I make such other appropriate order(s) and / or directions as this Hon'ble court may deem fit and proper the facts and circumstances of the case.”*

2. Present writ petition is filed by the Petitioners, assailing the order dated 21.01.2021 passed by the Revisionary Authority/Respondent No.1, whereby the prayer of the Petitioners seeking extension of time to make a pre-deposit under Section 129E of the Customs Act, 1962 and remanding the matter to Commissioner (Appeals), subject to pre-deposit, was rejected.

3. The order-in-original dated 28.07.2016 adjudicated a show-cause notice dated 28.07.2015 issued to the Petitioners regarding alleged over valuation of exports. Aggrieved by the said order, Petitioners preferred an appeal before Respondent No.2/Commissioner (Appeals), which was, however, dismissed on account of failure of the Petitioners to make a pre-deposit of 7.5% of the duty of penalty in terms of Section 129E of the Customs Act. This led to the Petitioners filing an application before Respondent No.1 seeking a period of two months for making the pre-deposit and remand of the matter before the Commissioner (Appeals). The

application was rejected and subsequent thereto it is the case of the Petitioners that they have deposited 7.5% of the pre-deposit of duty demand vide TR-6 Challan No.2569 dated 10.03.2021, amounting to Rs.3,84,630/- as well as 7.5% of the pre-deposit of penalty vide TR-6 Challan No.2570 dated 10.03.2021, amounting to Rs.8,62,500/-. Present petition has thus been filed seeking a limited relief of quashing the impugned order dated 21.01.2021 passed by Respondent No.1 as well as the order-in-appeal dated 16.02.2018 passed by Respondent No.2 and for a direction to remand the matter back to Respondent No.2 to hear the appeal on merit.

4. We have heard the learned counsels for the parties and perused the challans vide which the pre-deposit of penalty and duty demand have been deposited by the Petitioners. Since the mandatory pre-deposit has been made by the Petitioners, under the provision of Section 129E of the Customs Act, we hereby quash the impugned order dated 21.01.2021 (Annexure 'A' to the memo of the petition) as well as order dated 16.02.2018 passed by Respondent No.2 (Annexure 'C' herein). We also remand the matter back to Respondent No.2 for hearing the appeal on merits.

5. It is made clear that this Court has not expressed any opinion on the merits of the case and needless to state that Respondent No.2 shall decide the appeal in accordance with law.

6. The writ petition is hereby allowed and disposed of.

**CHIEF JUSTICE**

**JYOTI SINGH, J**

**OCTOBER 29, 2021/N/SN**