IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-DB

COURT –I

Customs Appeal No.C/50104/2016-[DB]

[Arising out of Order-in-Appeal No. 72(AK)CUS/JPR/2015 dated 01.10.2015 passed by the Commr.(Appeals) Jaipur].

Arif Khan …Appellant

Vs.

C.C.E. Jaipur-II … Respondent

Present for the Appellant : Imran Khan (Advocate)
Present for the Respondent: Mr. Govind Dixit (D.R.)

Coram: HON'BLE JUSTICE (DR.) SATISH CHANDRA, PRESIDENT
HON'BLE MR. B. RAVICHANDRAN, MEMBER (TECHNICAL)

Date of Hearing/Decision: 20/06/2017

FINAL ORDER NO. 54158 /2017

PER: JUSTICE (DR.) SATISH CHANDRA

The present appeal is filed against order in appeal No. 72/2015 dated 01.10.2015. During the course of argument Sh. Imran Khan, the Ld. Counsel for the appellant submits that his client has no claim pertaining to the demand of customs duty. He has waived all his rights pertaining to customs duty. He wants to contest the appeal only on penalty of Rs. 10 Lakh. They have already made required pre-deposit. Commissioner has dismissed the appeal by observing that no pre-deposit has been made out under Section 129E of the Customs Act.

2. After hearing the Ld. Counsel and Sh. Govind Dixit, representing the Department, it appears that the appellant has no claim towards the customs duty and the gold bars. He has waived his right. Now the issue only pertaining to the penalty of Rs. 10 Lakh for which the appellant has already made pre-deposit. When it is so, we set aside the impugned order and remand the matter back to the Commissioner (Appeals) to decide the appeal only pertaining to the penalty of Rs. 10 Lakhs, strictly on merits but by providing appellant an opportunity of being heard. In the result, the appeal is allowed by way of remand.

(Dictated and pronounced in the open court)

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(JUSTICE (DR.) SATISH CHANDRA)
PRESIDENT

Neha