**IN THE CUSTOMS, EXCISE & SERVICE TAX**
**APPELLATE TRIBUNAL**
**West Block No. 2, R.K. Puram, New Delhi – 110 066.**

**Date of Hearing/Order: 7.11.2017**

## Appeal No. C/54783/2014-SM

(Arising out of Order-in-Original No. 26/2014 dated 18.7.2014 passed by Commissioner of Customs, New Delhi)

M/s Sunbeam Auto Pvt. Ltd. — Appellant

Vs.

CC, New Delhi — Respondent

**Appearance**

Ms. Rinky Arora, Advocate - for the appellant

Shri U. Sengraj, D.R. - for the respondent

CORAM:**Hon'ble Mr. Justice (Dr.) Satish Chandra, President**

## Final Order No. 57780/2017

**Per Justice Dr. Satish Chandra:**

The present appeal is filed against the Order-in-Original No. 26/2014 dated 18.7.2014. The appeal was allowed by the Tribunal on 27.4.2015 (Final Order No. 51589/2015). Being aggrieved, the department has filed the appeal before the Hon'ble Delhi High Court in CM application No. 8650/2016, where Hon'ble High Court vide order dated 8.9.2016 has passed the following order:

> *"In this appeal, the revenue urges that the Customs, Excise and Service Tax Appellate Tribunal's (CESTAT) impugned order, allowing the request for conversion of shipping bills to drawback shipping bills, is erroneous.*

*At the outset, it is pointed out that an identical issue was decided by the Court in Commissioner of Customs V. Ginni International Limited 307 ELT 466. The appellant/revenue does not dispute the position. Accordingly, no question of law arises. However, the concerned competent officer shall verify the records and decide as to which of the bills would be entitled to drawback.*

*The appeal is accordingly disposed of in the above terms."*

2. From the above order, on plain reading, it appears that the competent authority is the original adjudicating authority. Hence, the present appeal is wrongly filed before the Tribunal. However, as per the direction of Hon'ble High Court, I remand the matter back to the adjudicating authority to verify the records and decide the issue afresh pertaining to which of the bills would be entitled to drawback. For the purpose, all the orders are modified.

3. In the result, appeal is allowed by way of remand.

(Dictated & pronounced in open Court)

(Justice Dr. Satish Chandra)
President

RM