**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL**
**MUMBAI**

**WEST ZONAL BENCH**

**Customs Appeal No: 313 of 2012**

[Arising out of Order-in-Original No: CC/MAK/08/2011-12 ADJ ACC(I) dated 30th January 2012 passed by the Commissioner of Customs (Import), Air Cargo Complex, Mumbai.]

Privilege Airways Pvt Ltd … ***Appellant***
3rd Floor, Dhreej Arma, Anant Kanekar Marg,
Bandra (E), Mumbai

*versus*

Commissioner of Customs (Imports) ***…Respondent***
Air Cargo Complex, Sahar, Andheri (E),
Mumbai 400 099

**WITH**

**(i) Customs Appeal No: 314 of 2012 (Housing Development & Infrastructure Ltd); (ii) Customs Appeal No: 315 of 2012 (Sarang Wadhwan); (iii) Customs Appeal No: 316 of 2012 (Pradeep Thampi); (iv) Customs Appeal No: 317 of 2012 (Rakesh Wadhwan).**

*APPEARANCE:*

Shri T Vishwanathan, Advocate for the appellant

Ms PV Sekhar, Joint Commissioner (AR) for the respondent

**CORAM:**

**HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)**
**HON'BLE DR SUVENDU KUMAR PATI, MEMBER (JUDICIAL)**

**FINAL ORDER NO: A/88452-88456 / 2018**

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| DATE OF HEARING: | 28/11/2018 |
| DATE OF DECISION: | 28/11/2018 |

*<u>PER: C J MATHEW</u>*

These appeals emanate from order-in-original no. CC/MAK/08/ 2011-12 ADJ ACC(I) dated 30th January 2012 of Commissioner of Customs (Import), Air Cargo Complex, Mumbai which has denied the benefit of exemption under notification no. 21/2002-Cus dated 1st March 2002 with various consequences arising therefrom.

2. At the commencement of the hearing both sides agree that the show cause notice, though issued by Commissioner of Customs (Preventive), Mumbai, was adjudicated by the Commissioner of Customs having jurisdiction over the port of assessment. It was brought to our notice that the Tribunal has regularly been remanding such matters back to the original authority to determine the issue of jurisdiction to issue notice before deciding on the allegations contained therein. In the absence of such finding on the jurisdiction in the impugned order, the Tribunal is bereft of a basis on which to decide the merits. Likewise, the issue it is one that may be difficult for Revenue to be appropriately defended in the absence of such finding in the impugned order. Consequently, following the decision of the Tribunal in *Commissioner of Customs (Preventive), New Delhi v. GMR Aviation Pvt Ltd & Others [final order no. 54010-54033/2017 dated 14th June 2017]*, we set aside the impugned order and remand

the matter back to the original authority to decide the issue of jurisdiction in accordance with settled law and, subject to which, merits may be decided upon.

3. Appeals are accordingly disposed off.

*(Pronounced in open court)*

**(C J Mathew)**
***Member (Technical)***

**(Dr. Suvendu Kumar Pati)**
***Member (Judicial)***

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