## CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH AT MUMBAI

REGIONAL BENCH - COURT NO. 02

**Customs Appeal No. 86738 of 2013**

(Arising out of Order-in-Appeal No. 148(ADJN.EXP.)/2013(JNCH)/EXP-29 dated 27.02.2013 passed by Commissioner of Customs (Appeals), Mumbai-II)

**M/s DBC Port Logistics Ltd.** **.....Appellant**
CFS-JNP, Sonari Village,
Tal.-Uran, Navi Mumbai-400707

*VERSUS*

**Commissioner of Customs (Export) NhavaSheva** **.....Respondent**
Jawaharlal Nehru Custom House,
Tal: Uran, District: Raigad,
NhavaSheva, Navi Mumbai-400707

**Appearance:**

Shri V.M. Dolphode, Advocatefor the Appellant
Shri Manoj Kumar, Authorized Representative for the Respondent

**CORAM:**
**HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)**
**HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

**FINALORDER NO. A/86815 / 2019**

Date of Hearing: 22.08.2019
Date of Decision:22.08.2019

**Per: S.K. MOHANTY**

Heard both sides and perused the records.

2. The learned Commissioner of Customs (Appeals), NhavaSheva, Mumbai, has rejected the appeal filed by the appellant on the ground that the requirement of Section 129E of the Customs Act, 1962 has not been complied with. Feeling aggrieved with the impugned order dated 27.02.2013, the appellant has filed appeal along with stay application before this

Tribunal. The stay application was disposed of by the Tribunal vide order dated 11/03/2014, in directing the applicant/appellant to deposit Rs.1,00,000/- and on showing compliance of such deposit, it was ordered that the balance recovery of the adjudged dues shall be stayed. On perusal of the records, we find that the order dated 11.03.2014 of the Tribunal has already been complied with by the appellant. Considering the fact that the appeal was rejected by the learned Commissioner (Appeals) only on the ground of non-compliance of the requirement of Section 129E *ibid*, we are of the view that the matter should be remanded to him for a decision on merits.

3. Therefore, after setting aside the impugned order, the appeal is allowed by way of remand to the learned Commissioner (Appeals) for deciding the appeal based on the available records. Needless to say that opportunity of personal hearing should be granted to the appellant before deciding the issue afresh.

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

(Dictated and pronounced in the open court)

**(S.K.Mohanty)**
**Member (Judicial)**

**(P. Anjani Kumar)**
**Member (Technical)**

*HK*