Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO.3

CUSTOMS ROM APPLCATION No. 10251 of 2023
in
CUSTOMS Appeal No. 83 of 2012

(Arising out of OIA-66/COMMMR-A/JMN/2012 dated 29.03.2012passed by Commissioner of CUSTOMS-JAMNAGAR)

RISHI SHIP BREAKERS **.........Appellant**
PLOT NO. 1501-02/C, 1ST FLOOR,
SARNATH COMPOUND, GHOGHA CIRCLE,
BHAVNAGAR,
GUJARAT

VERSUS

C.C. JAMNAGAR (PREV.) **..........Respondent**
SHARDA HOUSE...BEDI BANDAR ROAD,
OPP. PANCHAVATI,
JAMNAGAR
GUJARAT

APPEARANCE:
Shri Jagdish Kumar Narang, Advocate appeared for the Appellant
Shri P. Ganesan, Superintendent (AR) for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR

MISCELLANEOUS Order No. M/ 10296 2023

FINAL ORDER No. A/ 12783 /2023

DATE OF HEARING: 28.11.2023
DATE OF DECISION:28.11.2023

RAMESH NAIR

Revenue has filed the present application for rectification of mistake.

2. Shri P. Ganesan, learned (Superintendent) Authorized Representative appearing on behalf of the Revenue(Applicant) reiterates the grounds of appeal. He submits that by this Tribunal order No. A/10736010737/2023 dated 27.03.2023, the appeals were allowed considering the issue of time bar. He pointed out that in case of Rishi Ship Breakers, the issue was not on time bar whereas the Commissioner (Appeals) has decided the appeal on the ground that

there is correlation between the impugned goods and sale thereof. Therefore, there is an apparent error in the order.

3. Shri Jagdish Kumar Narang, learned counsel appearing on behalf of the appellant (non-applicant) submits that the proprietor of the appellant has expired. He also submits death certificate of the proprietor Shri Rishi Raman Jain, therefore, he request that the order may be recalled and appeal may be abated, if at all there is any error in the order of the Tribunal. He placed reliance of the judgment of this Tribunal order No. 40419 of 2023.

4. I have carefully considered the submissions made by both the sides and perused the records. Considering the application of the Revenue for rectification of mistake, on going through the order, I find that the appeals were disposed of considering the issue as time bar whereas in case of Rishi Ship Breaker, at the time of hearing, no one appeared. The issue involved in the appeal of Rishi Ship Breaker is correlation between the imported goods and sale therof. Therefore, I agree that there is an apparent error in the order. Hence, the order is recalled. Since the appellant being a proprietorship concern, Shri Rishi Raman Jain has expired, the appeal is liable to be abated in terms of Rule 22 of CESTAT (PROCEDURE) Rules. Accordingly, the appeal is disposed of as abated. The ROM application is also disposed of in the above terms.

(Dictated & Pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

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