

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Zonal Bench, Ahmedabad

Appeal No. ST/12177/2018-SM

(Arising out of OIA No. CCESA-SRT-APPEALS-PS-704-2017-18 dated 28/02/2018 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

Cooldeck Industrial Pvt. Ltd.

- Applicant

Vs.

C.C.E. & S.T.-Surat-i

- Respondent

Represented by:

For the applicant : None

For the respondent : Shri K. J. Kinariwala, Asst. Commr. (AR)

CORAM:

Hon'ble Mr. Raju, Member (Technical)

Date of Hearing/Decision: 28/12/2018

ORDER NO. **A/12963 / 2018**

Per: Raju

This appeal involves an amount of Rs. 85,278/-. Second proviso to section 35B (1) of Central Excise Act, 1944 reads as below:

"Provided further that the Appellate Tribunal may, in its discretion, refuse to admit an appeal in respect of an order referred to in clause (b) or clause (c) or clause (d) where —

in any (i) disputed case, other than a case where the determination of any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or the amount (ii) of fine or penalty determined by such order, does not exceed [two lakh rupees];"

The above proviso grants discretion to dismiss the appeal in cases involving the amount less than two lakhs in certain circumstances. I find that there is huge pendency of cases in courts and Government, on its part, has decided

not to contest cases involving revenue of upto Rs. 20 lakhs in Central Excise/ Service tax matter and upto Rs. 10 Lakhs in Customs matter, irrespective of the issue vide circular no. F.No. 390/Misc/116/2012 dated 11/07/2018. In tribunal govt. has even withdrawn all the appeals filed prior to the circular also.

2. In this Background after examining the amount of Revenue, the size of the appellant and the nature of issue involved in exercise of the discretion, the appeal is dismissed as non maintainable.

(Dictated and pronounced in the open Court)

(Raju)
Member (Technical)

DS