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

REGIONAL BENCH – COURT NO. 03

CUSTOMS Appeal No. 11028 of 2021-SM

[Arising out of Order-in-Original/Appeal No AHD-CUSTM-APP-282-283-21-22 dated 30.06.2021 passed by Commissioner of CUSTOMS-AHMEDABAD]

SONI TEJASKUMAR PRAVINCHANDRA ...Appellant

202 Dev Nandan Avenue Jodhpur
Ahmedabad
Ahmedabad
Gujarat-380015

VERSUS

C.C.-AHMEDABAD ...Respondent

Custom House,
Near All India Radio Navrangpura,
Ahmedabad,
Gujarat

WITH

CUSTOMS Appeal No. 11029 of 2021-SM

[Arising out of Order-in-Original/Appeal No AHD-CUSTM-APP-282-283-21-22 dated 30.06.2021 passed by Commissioner of CUSTOMS-AHMEDABAD]

SONI PRATIKKUMAR YOGESHKUMAR ...Appellant

A/1 Dev Vatika Society Saroda Road Dholka
Ahmedabad,
Gujarat

VERSUS

C.C.-AHMEDABAD ...Respondent

Custom House,
Near All India Radio Navrangpura,
Ahmedabad,
Gujarat

APPEARANCE:
Shri R. Subramanya, Advocate for the Appellant
Shri Rajesh K Agarwal, Superintendent (Authorized Representative) for the Respondent

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

FINAL ORDER NO.A / 10021-10022 /2023

DATE OF HEARING:23.12.2022
DATE OF DECISION:05.01.2023

RAMESH NAIR

These appeals are directed against order in appeal dated 30.06.2021, whereby the Learned Commissioner (Appeals) upheld the order in original passed by the Adjudicating Authority. In the order in original, Adjudicating Authority has ordered absolute confiscation of one kadiwali gold chain weighing 234.920 grams having market value of Rs. 7,78,055/-,and tariff value of Rs. 6,89,608/- and also imposed penalty of Rs. 75,000/- on Shri Soni Tejas Kumar Patel in case of Soni Pratikkumar Yogesh kumar order for absolute confiscation of one Kadiwali gold chain weighing 245 Grams having tariff value of Rs.7,19,1988/- and market value of Rs. 8,11,440/- under the provision of Section 111(d), 111(i),111(l),111(m) of the Customs Act, 1962 and also imposed penalties of Rs. 72, 000/- on Shri Soni Pratikkumar Yogesh Kumar under the provision of Section 112(a)and 112(b) of Customs Act, 1962. The aforesaid gold chains were seized from the appellant's passengers at the Airport after landing at Ahmedabad terminal of SVPI Airport. The preliminary objection raised by Learned AR that since this is the case of passenger baggage and order was passed by Commissioner (Appeals), the appeal is not maintainable before this Tribunal on the ground of jurisdiction. He placed reliance upon the following judgments:

- 2017 (350) ELT 543 (Mad)- Payangadi Moidu Mohammed Ali Vs. Commr of Appeals, Chennai
- 2019 (365) ELT 630 (Tri.-Chennai)- Anees Fathima Bande Nawaz Vs. CC, AIR- CC, Airport, Chennai-I
- 2013 (290) ELT 125 (Tri-Ahmd)- Prakash Chandra Shantilal Vs. CC, Ahmedabad
- 2014 (310) ELT 390 (Tri.- Del)- Manish Kukreja Vs. CC, New Delhi
- 2017 (357) ELT 577 (Tri.- Chennai)- Payangadi Moidu Mohammed Ali Vs. CC, Chennai

2. Shri R. Subramaniya, Learned Counsel appearing on behalf of the appellant submits that the appeal is maintainable before this tribunal in the light of the following judgments:

- 2020 (9) TMI 267- CESTAT Chennai- Ahmed Gani Natchiar Vs. CC
- 2019 (370) ELT 590 (Tri.-Bang)- R N Palaksha Vs. CC
- 2019 (365) ELT 442 (Tri.-Hyd)- Raparthi Durga Rao Vs. CC
- 2017 (357) ELT 577 (Tri.-Chennai)- Payangadi Moidu Mohammed Ali Vs. CC
- 2013 (290) ELT 125 (Tri.-Ahmd)- Prakash Chandra Shantilal Vs. CC
- 2010 (252) ELT 212 (Tri.-Chennai)- GV Ramesh Vs. CC
- 2008 (230) ELT 305 (Tri.-Mum)- Sapna Sanjiv Kohli Vs. CC
- 2005 (186) ELT 440 (Tri.- Chennai) –Mohd Azeem Vs. CC

3. I have carefully considered the submissions made by both the sides and perused the records. I find that the appeal can be disposed of only on the issue of jurisdiction without going into the merit of the case. I find that both the sides have relied upon contrary judgments. However, as per the Hon'ble Madras High Court judgments in the case of Payangadi Moidu Mohammed Ali Vs. Commissioner (Appeals), Chennai-2017 (350) ELT 543 (Mad), in the identical issue appeal does not lie before the Tribunal whereas the competent authority is revisionary authority (Government of India). I, relying upon the Hon'ble Madras High Court judgment, I am of the view that in the present case, the appeal before this Tribunal is without jurisdiction. Therefore, the appeals are dismissed as infructuous. The appellants have liberty to approach the revisionary authority, Government of India with revision application.

(Pronounced in the open Court on 05.01.2023)

RAMESH NAIR
MEMBER (JUDICIAL)

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