CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
<u>ALLAHABAD</u>

REGIONAL BENCH - COURT NO.I

Customs Appeal No.70513 of 2019

(Arising out of Order-in-Appeal No.NOI-CUSTM-000-APP-1954-1957-18-19 dated 01/03/2019 passed by Commissioner of Central Goods & Service Tax (Appeals), Noida)

Commissioner of Customs, Noida **.....Appellant**
(Concor Complex, P.O. Container Depot, Noida)

VERSUS

M/s Phoenix India INC, **....Respondent**

(D-17, Pocket-A, SEZ, Moradabad)

<u>APPEARANCE:</u>

Shri Manish Raj, Authorised Representative for the Appellant
Shri Rajesh Chibber, Advocate for the Respondent

CORAM: HON'BLE MR. P.K. CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)

FINAL ORDER NO.70115/2024

DATE OF HEARING : 05.03.2024
DATE OF DECISION : 05.03.2024

<u>P.K. CHOUDHARY:</u>

Heard both the sides.

2. Learned Advocate appearing on behalf of the respondent argued that the appeal filed by the Revenue before the Tribunal is not maintainable.

3. We observe that this appeal pertains to demand of 'duty drawback'. Para No.4 of the impugned Order-in-Appeal (Preamble-Hindi) is reproduced below:-

> *"4. केंद्रीय उत्पाद शुल्क अधिनियम, 1944 की धारा 35-B(1) की प्रथम उपधारा (first Proviso) के क्लॉज़ (a), (b), (c) तथा (d) में निर्धारित प्रकृति के मामलों में केंद्रीय उत्पाद शुल्क (अपील्स) के द्वारा पारित अपील आदेश के विरुद्ध ट्रिब्यूनल में अपील नहीं की जायेगी और ऐसे मामलों में उक्त अधिनियम की धारा 35-EE में निहित प्रावधानों को देखा जाए।"*

4. Accordingly, we observe that this appeal does not lie before this Tribunal. The Appeal is disposed of in the above terms.

(Dictated and pronounced in open court)

(P.K. CHOUDHARY)
MEMBER (JUDICIAL)

(SANJIV SRIVASTAVA)
MEMBER (TECHNICAL)

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