IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT NO. III

Customs Appeal No. 40311 of 2020

(Arising out of Order-in-Original No. 74578/2020-CH-IV dated 13.03.2020 passed by the Commissioner of Customs, Chennai-IV, Custom House, No. 60, Rajaji Salai, Chennai – 600 001)

The Commissioner of Customs **: Appellant**
Chennai-IV Commissionerate,
Custom House, No. 60, Rajaji Salai, Chennai – 600 001

VERSUS

M/s. Amara Raja Batteries Limited **: Respondent**
Riaz Garden, 12, Kodambakkam High Road,
Nungambakkam, Chennai – 600 034

APPEARANCE:

Shri R. Rajaraman, Authorized Representative for the Appellant

Ms. Priya Antony, Advocate for the Respondent

CORAM:

HON'BLE MS. SULEKHA BEEVI C.S., MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 42348 / 2021

DATE OF HEARING: 28.09.2021

DATE OF DECISION: 28.09.2021

Order : Per Hon'ble Ms. Sulekha Beevi C.S.

The above appeal is filed by the Department against the order passed by the Commissioner who condoned the delay in submission of proof of payment of late fee and allowed the claim of duty drawback under Section 74 of the Customs Act, 1962 in regard to Shipping Bill No. 140476 dated 15.07.2016.

2. Learned Authorized Representative Shri R. Rajaraman appeared for the Department and Learned Advocate Ms. Priya Antony appeared for the respondent.

3. On perusal of records, the Bench entertained a doubt as to whether the appeal is maintainable before the Tribunal. The impugned order relates to a claim of duty drawback. As per the first proviso to sub-section (1) of Section 129A of the Customs Act, 1962, the Tribunal does not have jurisdiction to decide any appeal in respect of any order, if such order relates to the payment of drawback as provided in Chapter X of the Customs Act, 1962 and the Rules made thereunder. For better appreciation, the relevant portion of the said Section is reproduced as under:

> ***SECTION 129A. Appeals to the Appellate Tribunal.*** *— (1) Any person aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order -*
>
> *(a) a decision or order passed by the [Principal Commissioner of Customs or Commissioner of Customs] as an adjudicating authority;*
>
> *(b) an order passed by the [Commissioner (Appeals)] under section 128A;*
>
> *(c) an order passed by the Board or the [Appellate Commissioner of Customs] under Section 128, as it stood immediately before the appointed day;*
>
> *(d) an order passed by the Board or the [Principal Commissioner of Customs or Commissioner of Customs], either before or after the appointed day, under section 130, as it stood immediately before that day :*
>
> *[Provided that no appeal shall lie to the Appellate Tribunal and the Appellate Tribunal shall not have jurisdiction to decide any appeal in respect of any order referred to in clause (b) if such order relates to, -*
>
> *(a) any goods imported or exported as baggage;*
>
> *(b) any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India, or so much of the quantity of such goods as has not been unloaded at any such destination*

if goods unloaded at such destination are short of the quantity required to be unloaded at that destination;

(c) <u>payment of drawback as provided in Chapter X, and the rules made thereunder</u> :"

(Emphasis applied)

4. The impugned order relates to a claim of drawback and for this reason, the Tribunal lacks jurisdiction to decide the matter.

5. The appeal is dismissed as being without jurisdiction.

(Operative part of the order pronounced in the open court)

Sd/-
(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

Sd/-
(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

Sdd