CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. – IV

Customs Appeal No. 50259 of 2018 [SM]

[Arising out of Order-in- Appeal No. CC(A) CUS/D-II/IMP/ICD TKD/1069/2017 dated 18.10.2017 passed by the Commissioner of Customs (Appeals), New Delhi]

Commissioner of Customs (Import),
New Delhi (ICD TKD) **...Appellant**
Inland Container Depot,
Tuglakabad, ICD,
New Delhi

VERSUS

M/s. Nanak Electronics Pvt. Ltd. **...Respondent**
130, MCD Market, Karol Bagh,
New Delhi - 110005

APPEARANCE:
Shri Mahesh Bhardwaj, Authorized Representative for the Department
Shri Sarthak Sachdev, Advocate for the Respondent

CORAM: HON'BLE DR. RACHNA GUPTA, MEMBER (JUDICIAL)

DATE OF HEARING: 10.04.2024
DATE OF DECISION: 10.04.2024

FINAL ORDER No. 55614/2024

DR. RACHNA GUPTA

All the orders as were brought to the notice by learned counsel for the respondent on last date of hearing (as also quoted in the order of 20.03.2024) have been brought to the notice of learned Departmental Representative. All those orders have been acknowledged. Keeping in view the same and perusing the orders, we observe that the present proceedings have initiated w.e.f. 03.04.2023 pursuant to the directions of remand given by Hon'ble High Court of Delhi vide its order dated 21.11.2022. The order reads as follows:

> *"8. Accordingly, the order of the Customs, Excise and Service Tax Appellate Tribunal [in short, "Tribunal"] dated 20.02.2018 is set aside.*
>
> *8.1 The directions passed in CUSAA 20/2021, via judgment dated 28.03.2022, titled as Pr. Commissioner of Customs Vs. Kunal Lalani will apply mutatis mutandis to the above-captioned appeal as well."*

2. Department later moved an application praying for recalling of the said order dated 21.11.2022. Vide order dated 20.01.2023, the said application has been decided with following effects:

(i) The earlier order of 21.11.2022 has been recalled.

(ii) The department's appeal against the Final Order of this Tribunal bearing No. 50816-50817/2018 dated 20.02.2018 was being restored to its original stage of appeal before the Hon'ble High Court.

3. The order of Hon'ble High Court dated 20.01.2023 reads as follows:

> *"4. It is apparent from the order impugned in the present appeal that the issues involved are not similar to those involved in the case of* ***Commissioner of Customs V. Kunal Lalani.***
>
> *5. Accordingly, order dated 21.11.2022 is recalled and the appeal is restored to the position as obtaining on 21.11.2022."*

4. Vide the same order dated 20.01.2023, the said departmental appeal has been dismissed by Hon'ble High Court of Delhi while conceding its earlier decision in the case of **M/s. Sony India Pvt. Ltd. Vs. Commissioner of Customs reported as 2014 (304)**

ELT 660 (Del). The order of Hon'ble High Court dated 20.01.2023 reads as follows:

> *"13. This Court has, in a number of matters, dismissed the appeals filed by the Customs Authorities in view of the decision in* ***Sony India Pvt. Ltd. v. Commissioner of Customs*** *(supra). In* ***Commissioner of Customs v. S.R. Traders: CUSAA 36 of 2021****, decided on 18.04.2022, a Coordinate Bench of this Court has observed that decision in* ***Sony India Pvt. Ltd. v. Commissioner of Customs*** *(supra) would be binding on other benches of this Court. In* ***CUSAA 69/2019*** *captioned as* ***Commissioner of Customs v. Tanvir Trading Import****, this Court had taken note of the aforementioned decision and found no reason to differ with the aforesaid view. This court had, accordingly, dismissed the appeal."*

5. The above observed facts are sufficient to hold that the present proceedings before this Tribunal have become infructuous. The matter stand accordingly disposed of.

[Dictated and pronounced in the open Court]

(DR. RACHNA GUPTA)
MEMBER (JUDICIAL)

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