IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 77185 of 2019

(Arising out of Order-in-Appeal No. KOL/CUS(PORT)/AA/464/2019 dated 02.07.2019 passed by the Commissioner of Customs (Appeals), 3rd Floor, Custom House, 15/1, Strand Road, Kolkata – 700 001)

Principal Commissioner of Customs (Port) **: Appellant**
Custom House, 15/1, Strand Road,
Kolkata – 700 001

VERSUS

M/s. J.R.D. Industries **: Respondent**
42, Ganesh Chandra Avenue,
Kolkata – 700 013

APPEARANCE:

Shri Sourabh Chakravorty, Authorized Representative, for the Appellant (Revenue)

Shri N.K. Chowdhury, Authorized Representative, for the Respondent

CORAM:

HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 76936 / 2025

DATE OF HEARING / DECISION: 18.07.2025

ORDER:

The present appeal has been filed by the Revenue against the Order-in-Appeal No. KOL/CUS(PORT)/AA/464/2019 dated 02.07.2019 wherein the Ld. Commissioner (Appeals) has set aside the Order-in-Original dated 25.07.2014 and remanded the matter back to the lower authority for deciding the refund claim on its merits.

2. The Revenue has filed the appeal on the ground that the importer-respondent had not challenged the assessment and therefore, the respondent is not entitled to the refund. In support of their contention, the Revenue relies on the judgement of the Hon'ble

Apex Court in the case of *Paper Products Ltd. v. Commissioner of C.Ex. [1999 (112) E.L.T. 765 (S.C.)].*

3. The respondent submits that the Ld. Commissioner (Appeals) has examined the issue and thereafter remanded the matter back to the adjudicating authority, based on the decision in the case of *Micromax Informatics Ltd. v. Union of India [2016 (335) E.L.T. 446 (Del.)].*

4. Heard both sides and perused the appeal records.

5. I find that the Ld. Commissioner (Appeals) has examined the issue and recorded a clear-cut finding in the impugned order in respect of his decision to remand the matter back to the original adjudicating authority to adjudicate the refund claim on merits. I do not find any infirmity in the impugned order passed by the Ld. Commissioner (Appeals). Accordingly, I uphold the impugned order passed by the Ld. Commissioner (Appeals).

6. The appeal filed by the Revenue is dismissed.

(Dictated and pronounced in the open court)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd