**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI**

**WEST ZONAL BENCH**

**Customs Appeal No: 432 of 2008**

[Arising out of Order-in-Original No: 149/2007/CAC/CC/KAP dated 17th December 2007 passed by the Commissioner of Customs (Export Promotion), Mumbai.]

Commissioner of Customs (EP) … ***Appellant***
New Custom House, Ballard Estate, Mumbai – 400 001

*versus*

Lovely Enterprises …***Respondent***
Room No. 1, Sundardas Compound, Agripada,
Dr. Nair Road, Mumbai

*APPEARANCE:*

Shri Manoj Kumar, Deputy Commissioner (AR) and Shri C Singh, Assistant Commissioner (AR) for the appellant

None for the respondent

**CORAM:**

**HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)**
**HON'BLE AJAY SHARMA, MEMBER (JUDICIAL)**

**FINAL ORDER NO: A/88461 / 2018**

DATE OF HEARING: 31/12/2018
DATE OF DECISION: 31/12/2018

*PER: C J MATHEW*

This appeal of Revenue has been filed against order-in-original no. 149/2007/CAC/CC/KAP dated 17th December 2007 of

Commissioner of Customs (Export Promotion), Mumbai in proceedings initiated in show cause notice dated 10th June 2003 for disallowance of drawback claimed against various shipping bills filed by M/s Lovely Enterprises.

2. None appeared for the respondent.

3. We have heard Learned Authorised Representative who submitted that, though the competent authority intended to seek imposition of penalties against individuals who had been exonerated in the impugned order, the appeal had been filed against M/s Lovely Enterprises, the exporter named in the various impugned shipping bills. It was conceded that the adjudicating authority had confiscated the goods entered for exports against three shipping bills besides rejecting the drawback claims against previous exports and imposing penalty on M/s Lovely Enterprises. Thus, precluding any grievance over the decision of the adjudicating authority as far as the exporter was concerned.

4. A perusal of the appeal demonstrates that it has been filed very casually and not in conformity with the decision of the competent authority to take recourse to appellate remedies. The penal proceedings proposed in the show cause notice against certain individuals may have given cause for grievance but they have not been enumerated as respondents. Moreover, the review order has been

erroneously recorded as the one impugned in this appeal. In the proceedings, it is the exporter who has been placed on notice and not any of the individuals against whom proceedings were proposed in the review order.

5. It is also seen from the records that a miscellaneous application for substitution of the respondent herein had been dismissed by the Tribunal *vide* order no. M/86226/2018 dated 13th February 2018.

6. In view of the above, the appeal of Revenue is dismissed as infructuous.

*(Pronounced in open court)*

**(C J Mathew)**
***Member (Technical)***

**(Ajay Sharma)**
***Member (Judicial)***

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