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

REGIONAL BENCH - COURT NO. 02

Customs Miscellaneous Application (EH) No. 85111 of 2021

(on behalf of Appellant)

in

Customs Appeal No. 85156 of 2021

(Arising out of Order-in-Appeal No. MUM-CUSTM-PAX-APP-529/2019-20 dated 04.112020 passed by Commissioner of Customs (Appeals), Mumbai, Zone III)

Shri Kalpesh Samji Baradiya **.....Appellant**
Plot No. RM57, MIDC,
Phase-2, Near Aims Hospital,
Dombivali East, Thane
Maharashtra – 421 201.

VERSUS

Commissioner of CGST & Central Excise Mumbai (Air Port) **.....Respondent**
Chhatrapati Shivaji International Airport, Mumbai

<u>Appearance:</u>

Shri Ashish Chauhan, Advocate for the Appellant
Shri Bhushan Kamble, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)

FINAL ORDER NO. A/85354/2021

Date of Hearing : 09.02.2021
Date of Decision: 09.02.2021

PER : S.K. MOHANTY

Heard both sides and perused the records.

2. The applicant/appellant has filed the miscellaneous application, praying for early hearing of appeal. On perusal of the case records and upon hearing both sides, I am of the view that the prayer made by the applicant/appellant can be considered and accordingly, the early hearing application is allowed and with the consent of both sides, the appeal is taken up for hearing and disposal today.

3. The appeal relates to seizure of gold chains on arrival at CSI Air Port, Mumbai from Dubai by Flight No.6E 62. The case was adjudicated in ordering for absolute confiscation of the said goods under Section 111(d) (l) (m) of the Customs Act, 1962 and imposition of personal penalty on the appellant under Section 112(a) & (b) *ibid*. On appeal, the Ld. Commissioner of Customs (Appeals) vide the impugned order dated 04.11.2020 has upheld the adjudged demands confirmed on the appellant and rejected the appeal. Feeling aggrieved with the impugned order, the appellant has preferred this appeal before the Tribunal.

4. Insofar as filing of appeal before the Tribunal is concerned, Section 129A ibid provides the details of orders, which can be appeal against. The first proviso appended to Section 129A *ibid* mandates 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 passed by the Ld. Commissioner (Appeals), which relates to the goods imported or exported as baggage. Since present issue relates to consideration of the issue of *bonafide* baggage under the Baggage Rules, 2016 read with the Notification issued thereunder, the case of the appellant falls outside the scope and purview of the proviso clause appended to Section 129A *ibid*. Thus, the Tribunal has no power or jurisdiction to decide the appeal filed against importation of goods as baggage.

4. In view of above, the appeal filed by the appellant is dismissed on the ground of jurisdiction alone.

(Dictated and pronounced in the open court)

(S.K. Mohanty)
Member (Judicial)

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