CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH AT MUMBAI

REGIONAL BENCH - COURT NO. 01

Customs Appeal No. 85652 of 2020

(Arising out of Order-in-Appeal No. MUM-CUS-JSN-EXP-131,132&133/2019-20 NCH dated 19.02.2020 passed by Commissioner of Customs (Appeals), Mumbai Zone-I)

M/s. Perq Fabric Exports .....**Appellant**
Presidency Co-op. Housing Society,
Plot No. 56, Flat No. 1,
Ground Floor, N S Road 7,
JVPD, Mumbai-40049

VERSUS

Commissioner of Customs, ...**Respondent**
Mumbai Export - I
NCH, Mumbai, Second Floor,
New Customs House,
Shoorji Vallabhdas Road,
Ballard Estate, Mumbai-400001

WITH

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AND

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VERSUS

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Appearance:

Shri Ganesh Kumar, Advocate for the Appellant
Shri Manoj Kumar, Authorized Representative for the Respondent

CORAM:

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

FINAL ORDER NO. A/87304-87306/2021

Date of Hearing: 15.12.2021
Date of Decision: 15.12.2021

PER : S.K. MOHANTY

Heard both sides and perused the records.

2. Recovery of drawback in respect of exportation of goods is the subject matter of present dispute before the Tribunal. The Appeals filed by the appellant were rejected by the learned Commissioner (Appeals) on the ground of limitation. Insofar as filing of appeal before the Tribunal is concerned, sub-section (1) of Section 129A of the Customs Act, 1962 provides that various orders passed by the Administrative Commissioner and the Commissioner (Appeals) can be appealed against

before the Tribunal. The first *proviso* appended to Section 129A *ibid* mandates that no appeals shall lie to the Appellate Tribunal and the Appellate Tribunal shall not have jurisdiction to decide any appeal in respect of order relates to payment of drawback as provided in Chapter X and the rules made there under. Both sides agree that in these cases, the dispute relates to recovery of drawback claimed by the appellant under Section 75 *ibid.* As per the provisions of Section 129A *ibid,* since the Tribunal has no jurisdiction to decide the appeals conserning drawback calim, the present appeals filed by the appellant cannot be entertained and accordingly, dismissed on the ground of jurisdiction. However, the appellant is at liberty to approach proper and competent authority for redressal of their dispute.

3. The appeals are disposed of in above terms.

(Dictated and pronounced in the open court)

(S.K. Mohanty)
Member (Judicial)

HK