CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 85214 of 2020

(Arising out of Order-in-Appeal No. NGP/EXCUS/000/APPL/084/17-18/1393 dated 19.09.2019 passed by the Commissioner of Customs (Appeals), Nagpur)

M/s GTN Industries Ltd. **.... Appellant**
Khajurjgaons Sonar, Tal. Nagpur, Dist. Nagpur,
Maharashtra – 441112.

Versus

Commissioner of Customs-Nagpur **.... Respondent**
P.O Box 81, Telangkhedi Road, Civil Lines,
Nagpur, Maharashtra – 440001.

Appearance:

Shri Milind Patel, Chartered Accountant for the Appellant

Shri Ram Kumar, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85632/2023

Date of Hearing: 27.04.2023

Date of Decision: 27.04.2023

Per: Anil G. Shakkarwar

The issue involved in the present appeal is related to the provisions related to payment of drawback to the appellant on export of goods. Provisions of Section 129(A) of the Customs Act, 1962 are reproduce below:-

> "(1) Any person aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order -
>
> (a) a decision or order passed by the [1] [Principal Commissioner of Customs or Commissioner of Customs] as an adjudicating authority;

(b) an order passed by the [2][Commissioner (Appeals)] under section 128A;

(c) an order passed by the Board or the [3][Appellate Commissioner of Customs] under Section 128, as it stood immediately before the appointed day;

(d) an order passed by the Board or the [4][Principal Commissioner of Customs or Commissioner of Customs], either before or after the appointed day, under section 130, as it stood immediately before that day :

[5][**Provided** 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 referred to in clause (b) if such order relates to, -

(a) any goods imported or exported as baggage;

(b) any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India, or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination;

(c) payment of drawback as provided in Chapter X, and the rules made thereunder :"

It is clear from clause (c) under first proviso to Section 129 (A) of the Customs Act, 1962 that this Tribunal does not have jurisdiction when the matter is related to payment of drawback. I, therefore, dismiss the appeal being filed in wrong forum.

(Order dictated and pronounced in open court)

(Anil G. Shakkarwar)
Member (Technical)

Sinha