CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Early Hearing Application No. 85934 of 2024
(On behalf of Respondent)

In

Customs Appeal No. 85560 of 2024

(Arising out of Order-in-Original CAO No. 50/CAC/PCC(G)/SJ/CBS-Adj. dated 28.11.2023 passed by the Principal Commissioner of Customs (Gen.), Mumbai)

Commissioner of Customs (General), Mumbai .... Appellant
New Custom House, Ballard Estate, Mumbai- 400001

Versus

M/s Tulsidas Khimji Pvt. Ltd. .... Respondent
TK House, Shrikant Hardkar Marg,
Zakaria Bunder Road, Behind Vsihambhar Hotel,
Cotton Green (W), Mumbai – 400 033

WITH

Customs Early Hearing Application No. 85933 of 2024
(On behalf of Respondent)

In

Customs Appeal No. 86127 of 2024

(Arising out of Order-in-Original CAO No. 68/CAC/PCC(G)/SJ/CBS-Adj. dated 02.02.2024 passed by the Principal Commissioner of Customs (Gen.), Mumbai)

Commissioner of Customs (General), Mumbai .... Appellant
New Custom House, Ballard Estate, Mumbai- 400001

Versus

M/s Tulsidas Khimji Pvt. Ltd. .... Respondent
TK House, Shrikant Hardkar Marg,
Zakaria Bunder Road, Behind Vsihambhar Hotel,
Cotton Green (W), Mumbai – 400 033

Appearance:

Shri Rajiv Ranjan, Authorized Representative for the Appellants

Shri J.C. Patel, Advocate for the Respondents

CORAM:

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

FINAL ORDER NO. A/86816-86817/2024

Date of Hearing: 29.10.2024
Date of Decision: 29.10.2024

Per: S.K. Mohanty

Heard both sides and perused the case records.

2. Applicants have filed these miscellaneous applications, seeking early hearing of the appeals. On going through the averments made in the said applications, we are of the view that the prayer made in support of out-of-turn hearing of appeal can be considered and accordingly, the miscellaneous applications are allowed.

3. Since the issue involved in both the appeals lies in a very narrow compass, with the consent of both sides, the appeals are taken up for hearing and a common order is being passed.

4. Revenue has assailed the impugned order dated 28.11.2023 and 02.02.2024 on the ground that dropping of the charges lavelled against the customs broker under Regulation 16 of the CBLR, 2018 is not proper and justified. Insofar as filing of appeal by Revenue under the CBLR, 2018 is concerned, the issue is no more *res integra*, in view of the order passed by the Tribunal in the case of Commissioner of Customs, Mumbai Vs. Micro Clearing Agency reported in 2019 (1) TMI 1319 CESTAT MUMBAI. The relevant paragraph in the said order is extracted herein below:-

> *"7. Chapter XV contained in the Customs Act, 1962 deals with the provisions of filing of appeals and revisions and the manner of disposal thereof. Sections 128 to 131C are*

contained in such chapter. Section 129A of the Act provides for filing of appeal to the Appellate Tribunal against a decision or order passed by the Commissioner of Customs as an adjudicating authority. The present impugned order was passed by the learned Commissioner of Customs in his administrative capacity and not in context with matter relating to levy of tax. Since such order was passed under the CHALR, 1984, the author of such order cannot be termed as an adjudicating authority, whose order can be appealed against before the Appellate Tribunal. Therefore, in absence of any specific provisions made in the Customs statute, the present appeal filed by Revenue is not maintainable before the Tribunal. We find that under the identical situation, the Tribunal in the above referred cases has held that right to appeal against the CHALR, 1984 before the Tribunal is only available to the CHA and Revenue cannot be termed as an "aggrieved party" against the decision concerning the licensing regulations for filing appeal before the Tribunal. Thus, Revenue's appeal is not maintainable before this Tribunal for consideration of the grounds urged therein."

5. In view of the fact that the appeal filed by the Revenue under the CBLR, 2018 is not maintainable before the Tribunal, we do not find any substance in such appeals and accordingly, dismiss the same.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha