CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI
REGIONAL BENCH, COURT NO. 2

CUSTOMS APPEAL NO. 85903 OF 2022

(Arising out of Order-in-Appeal No. MUM-CUSTM-PAX-APP/79/2020-21 dated 04.03.2021 passed by the Commissioner of Customs (Appeals-III), Mumbai.)

MOHAMED MANSOOR
OLD NO. 55, NEW NO. 101,
V.V. KOLI STREET, CHOOLAL, **Appellant**
CHENNAI-600012.

Vs.

COMMISSIONER OF CUSTOMS, AIR PORT) – MUMBAI
C.S.I. AIRPORT,
SAHAR, ANDHERI EAST, **Respondent**
MUMBAI-400099.

WITH

CUSTOMS APPEAL NO. 85904 OF 2022

MAHABUBUNISSA
OLD NO. 55, NEW NO. 101,
V.V. KOLI STREET, CHOOLAL, **Appellant**
CHENNAI-600012.

Vs.

COMMISSIONER OF CUSTOMS, AIR PORT) – MUMBAI
C.S.I. AIRPORT,
SAHAR, ANDHERI EAST, **Respondent**
MUMBAI-400099..

Appearance:
Present for the Appellant : Shravan Kochar, Advocate
Present for the Respondent: Shri Ram Kumar, D.C., A.R.

CORAM:
HON'BLE Dr. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO. A/85267-85268/2025

Date of Hearing: 17/02/2025
Date of Decision: 17/02/2025

ORDER

Jurisdiction of this Tribunal to deal with appeal that arose from order passed under section 79 & 80 of the Customs Act, dealing with Baggage Rules, is heard today from both the sides and taken up for orders.

2. Ld. Authorised Representative at the commencement of hearing of this appeal on 24.11.2023 had objected to the maintainability of this appeal filed before the Tribunal against order of the Commissioner (Appeals) who passed an order for confiscation as well as re-export of goods u/s. 80 of the Customs Act. Today, with reference to provisions contained in section 129 of the Customs Act, he pleaded that there is clear bar in the statute for this Tribunal to deal with such baggage issues, for which the appeal is required to be filed before the Revisional Authority of the Government of India and not maintainable before this Tribunal. In support of his claim, he has produced three decisions of this Tribunal passed in the case of Customs Appeal No. C/86466/2023 on 13.07.2023, Appeal No. C/30100/2023 on 26.07.2023 and Appeal No. C/30006/2023 passed on 26.07.2023 as well as referred to the Baggage Rules to justify that this Tribunal is not empowered to deal with such matter, in which Baggage Rules is to be applied.

3. On the other hand, Ld. Counsel for the Appellant with reference to decision of this Tribunal passed on 19.12.2024 in Final Order No. 87527/2024 and with reference to the judgment of Hon'ble Madrash High Court (Sabina Mohammad case) passed in the writ petition No. 5247/2024 on 31.01.2025 has argued that articles "carried in person" are not covered under Baggage Rules as has been held by Hon'ble Madrash High Court and also if, there is requirement of assessment/re-assessment under Baggage Rules Tribunal is empowered to deal with those matters as has been held by this Tribunal in the final order dated 19.12.2024 referred above. *Per contr*, Ld. Authorised Representative, in citing Interim Orders of Hon'ble Madrash High Court published in the form of news article on

16.02.2025 informed that the relied upon judgments of Sabina Mohmad, referred by Ld. Counsel for the Appellant and one Tanushika V/s. Principal Commissioner of Customs were dealt by Hon'ble Madrash High Court in writ petition No. 5247/2024, referred above but Division Bench of the Hon'ble Madrash High Court has already stayed the order passed in Tanushika for which placing reliance on the said judgment at this stage would be improper.

4. I have taken note of the submissions and perused the provision of law as well as relied upon judgments. Section 129A clause-I proviso states that <u>no appeal shall lie to the Appellate Tribunal and Appellate Tribunals shall not have jurisdiction to decide any appeal</u> in respect of any order referred to writ clause-B (i.e. order passed by Commissioner (Appeals) u/s. 128 A), if such order relates to …. Sub-clause-A - Any goods imported /exported as baggage.

> The bare reading of the statute merely indicates that CESTAT lacks jurisdiction to entertain any appeal in which Baggage Rules, which emanates from section 79 of Customs Act, is dealt with. This Tribunal’s finding should not be contradictory to such statutory provision only for the reason that in the final Order passed by Hon’ble Madras Court on 19.12.2024 cited supra, some different aspect including assessment/re-assessment as well as confiscation proceedings have been dealt with but having regard to the fact that there is inclusion of the words “carrying on the person” in the Baggage Rules occurring at Section 3(B) can also cover Jewelleries owned on by a person and the same has to be dealt with as per provisions of Baggage Rules of 2016, which is also accordingly dealt by the Commissioner (Appeals) in his order directing confiscation and re-export u/s. 80 of Customs Act.

5. I am, therefore, of the considered opinion that Appellate Tribunal lacks jurisdiction to entertain such appeal and therefore accepting request of ld. Counsel for the Appellant, liberty is granted to withdraw this appeal from this forum so as to enable him to file appeal before the Appropriate Revisional Authority, to be done within a month of passing of this order. Ld. Counsel for the Appellant also seeks for grant of exemption of this period from computation for the period of limitation for which Appellant has prosecuted its appeal before a wrong forum, by invoking section 14 of the Limitation Act.

6. I am of the view that this limitation matter is supposed to be dealt by the Revisional Authority, before whom the computation of period of limitation is to be made and Section 14 being statutory provision, spirit of which, Hon'ble Supreme Court in the case of M.P. Steel V/s. Union of India, 2015 [2015] 7 S.C.R.291, has clearly directed Tribunals to apply while computing the period of limitation, Appellant can avail of the said opportunity before the Revisional Authority.

7. With this observation the appeals stand dismissed as withdrawn with liberty to re-file the same before the appropriate Authority.

(Dictated and pronounced in the open court.)

(Dr. SUVENDU KUMAR PATI
MEMBER (JUDICIAL)

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