CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 87400 of 2025

[Arising out of Order-in-Appeal No. MUM-CUSTM-PAX-APP-847 to 849/2023-24 dated 21.09.2023 passed by the Commissioner of Customs (Appeals), Mumbai-III]

Sanjay Kulthia **.... Appellant**
M/s. BSK Jewellers,
18, Hasanpukur,
First Lane, Kolkata 700 007.

Versus

Commissioner of Customs, Preventive, Mumbai **.... Respondent**
New Custom House, Mumbai 400 001.

WITH

Customs Appeal No. 87401 of 2025

[Arising out of Order-in-Appeal No. MUM-CUSTM-PAX-APP-847 to 849/2023-24 dated 21.09.2023 passed by the Commissioner of Customs (Appeals), Mumbai-III]

Lalit Kulthia **.... Appellant**
M/s. BSK Jewellers,
18, Hasanpukur,
First Lane, Kolkata 700 007.

Versus

Commissioner of Customs, Preventive, Mumbai **.... Respondent**
New Custom House, Mumbai 400 001.

APPEARANCE:

Shri Vineet Kumar Singh, Advocate for the Appellant

Shri S.K. Mathur, Special Counsel for the Respondent

CORAM:

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

FINAL ORDER NO. 85751-85752/2026

Date of Hearing: 24.03.2026

Date of Decision: 24.03.2026

PER: S.K. MOHANTY

Heard both sides and perused the case records.

2. These appeals are directed against the impugned order dated 21.09.2023 passed by the Commissioner of Customs (Appeals), Mumbai-III. In the impugned order, the learned Commissioner (Appeals) has rejected the appeals filed by the appellants on the ground that the requirement of Section 129E of the Customs Act, 1962 has not been complied with by the appellants.

3. On reading of the case records, we find that though the appellants did not comply with the requirement of making pre-deposit at the time of filing of appeals before the learned Commissioner (Appeals), but such requirement was duly complied with at the time of filing appeals before the Tribunal, which will be evident from the fact that upon compliance of pre-deposit, Registry has assigned number to the appeals and registered the same for hearing before the Tribunal. Since the learned Commissioner (Appeals) has not discussed the merits of the case and has simply rejected the appeal on the ground of non-compliance of the requirement of Section 129E *ibid*, we are of the view that the matter is required to be remanded back to the Commissioner (Appeals) for a decision on merits.

4. Therefore, the impugned order is set aside and the appeals are allowed by way of remand to the learned Commissioner (Appeals), for deciding the appeals based on the available records and those to be submitted by the appellants at the time of hearing of the appeals before him. Needless to say that a reasonable opportunity of hearing should be granted to the appellants before deciding the appeals afresh.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

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