IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CUSAP No. 24 of 2006 (O&M)
Date of decision: 6.9.2016

Commissioner of Customs, Amritsar

.. Appellant

v.

M/s Oswal Paper & Allied Industries and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

..

Present: Mr. Anshuman Chopra, Advocate for the appellant.
Mr. Jainainder Saini, Advocate for the respondents.

...

Rajesh Bindal J.

The revenue has filed the present appeal against the order dated 2.6.2006, passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi, which was admitted on 2.7.2007 for consideration of the following substantial questions of law:

"(a) Whether the subject goods could be confiscated under Section 111(o) of the Customs Act, 1962 on violation of conditions of import by the respondents ?

(b) Whether the CESTAT is justified in allowing the appeal of the respondents by holding that exemption notification No. 111/95-Cus., dated 5.6.1995, is a self contained code and it mentions benefits, obligations and circumstances and no action outside the notification is attracted and called for in regard to imports made and, hence, setting aside the confiscation and imposition of penalities ?

(c) Whether the exemption notification No. 111/95-Cus, dated 5.6.1995, has been issued under the powers conferred by sub-section (1) of Section 25 of the Customs Act, 1962 and, thus, any notification issued under the powers derived from the Customs Act is part and parcel of the legislative provisions of the Customs Act until or unless any contrary provisions/ explanation/ condition has been made under such notification in terms of sub-section (2A) of Section 25 of the Customs Act, 1962 ?"

Learned counsel for the respondents submitted that assets of the respondent-company were taken over by the financial institution and have been sold, however, the sale is under challenge. In fact, the respondent-company is lying closed.

Learned counsel for the appellant, while referring to order dated 18.7.2016, passed by Hon'ble the Supreme Court in Civil Appeal Nos. 4479-4488 of 2008—Commissioner of Central Excise, Nagpur v. Vidarbha Veneer Industries Ltd. and others, submitted that in view of the aforesaid development, the present appeal may be disposed of at this stage, however, with liberty to the department to get the same revived, in case the respondent-company succeeds in challenge to the sale of assets and revives its business.

Ordered accordingly.

(Rajesh Bindal)
Judge

(Harinder Singh Sidhu)
Judge

6.9.2016
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No