Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CUSTOM APPEAL NO. 41 OF 2018

The Commissioner of Customs (Preventive) ...**Appellant**

Versus

M/s. Vaj Marketing & Investments P.Ltd. ...**Respondent**

Mr. Sham Walve a/w Mr. Ram Ochani, for the Appellant.

Mr. Harmaz Daruwalla a/w Mr. Rahul Jain, i/by Alpha Chambers, for the Respondent.

CORAM : M.S. SANKLECHA & RIYAZ I. CHAGLA, JJ.

DATE : 8 October 2018

ORDER :

1. This Appeal under Section 130 of the Customs Act, 1962 challenges the order dated 25th July 2017 of the Customs, Excise and Service Tax Appellate Tribunal (for short "***the***

Tribunal").

2. Shri. Walve, the learned Counsel in support of the Appeal, urges the following reframed question of law for our consideration:-

> Whether in the facts and circumstances of the case and in law was the Tribunal justified in holding that the Respondent herein is not an importer?

3. We find that the impugned order of the Tribunal dated 25th July 2017 held that in the facts and circumstances of the case, the Respondent could not be held to be an importer. This was agreed/accepted to by the Appellant-Revenue herein.

4. We find as the Revenue itself has conceded the issue before the Tribunal in favour of the Respondent, the issue ceases to be a debatable issue which would give rise to a substantial question of law for our consideration.

5. In fact, in an Income Tax case, this Court in ***Commissioner of Income Tax Vs. Mahalaxmi Glass Works (P) Ltd***. (supra) had after accepting the view of the Tribunal, further observed that where concession of the Revenue has been recorded in the order of the Tribunal, then no substantial question of law would arise for our consideration. Thus, the question as proposed in the present facts, does not give rise to any substantial question of law. Thus, not entertained.

6. Accordingly, the Appeal is dismissed, with no order as to costs.

[RIYAZ I. CHAGLA J.] **[M.S. SANKLECHA, J.]**