Sharayu Khot.

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

CUSTOM APPEAL NO. 44 OF 2018

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

Versus

Shri Ashok Jatia ...**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 (for short "***the Act***") challenges the order 25th July 2017 passed by the Customs, Excise and Service Tax Appellate

Tribunal (for short "***the Tribunal***"). The impugned order dated 25th July 2017 is a common order of the Tribunal relating to M/s. Vaj Marketing Investments Private Limited and its Director the Respondent herein.

2. This Appeal by the Revenue relates to the penalty imposed upon the Director of M/s. Vaj Marketing Investments Private Limited being deleted by the Tribunal.

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

> Whether in the facts and circumstances of the case and in law was the Tribunal right in deleting penalty imposed under Section 112 of the Act?

4. We have today by a separate order dismissed the Revenue's Appeal filed from the common impugned order dated

25th July 2017 of the Tribunal in respect of M/s. Vaj Marketing Investments Private Limited being Custom Appeal No. 41 of 2018. This Appeal relates to the Director of M/s. Vaj Marketing Investments Private Limited and in view of the above, the order impugned herein in respect of the Respondent would also not give rise to any substantial question of law. This for the reasons that the penalty upon the Respondent herein can only be upheld, if it had been held that M/s. Vaj Marketing Investments Private Limited of which the Respondent is a Director was an importer under the Act.

5. In the above view, 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.]**