IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CUSAP No. 16 of 2018 (O&M)
Decided on : 17.12.2018

Commissioner of Customs, Ludhiana

. . . Appellant(s)

Versus

M/s Vanaik Spinning Mills Ltd.

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Puneet Palli,Advocate for
Mr. Amit Goyal, Advocate
for the appellant(s)-revenue.

Mr. Surjeet Bhadu, Advocate
for the respondent(s)-assessee.

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AJAY KUMAR MITTAL, J. (Oral)

The challenge in this appeal filed under Section 130(1) of the Customs Act, 1962, laying the challenge to the order dated 11th May, 2017 (Annexure A-3) received on 14.06.2017, passed by the Customs, Excise & Service Tax Appellate Tribunal, Sector 17, Chandigarh in Appeal No. C/60518 of 2016.

2. A perusal of the case file shows that the tax effect involved in the present appeal is ₹ 5,04,428/-. The respondent had claimed refund of ₹73,51,167/-, out of which an amount of ₹ 68,48,739/-, had been accepted by the Customs Authorities. Learned counsel for the respondent-assessee has produced instructions issued by the Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes & Customs (Judicial Cell), dated 11th July, 2018, whereby, the monetary limit has been fixed for filing the appeals in the High Courts at ₹50,00,000/-. In Para No.3 of the aforesaid instruction, it has also been stated that wherever, monetary limit is less, the appeal shall be withdrawn and the said instruction is applicable to all the pending appeals in the High Courts.

3. Furthermore, the tax effect involved in the present case is very small i.e. ₹ 5,04,428/-. The Apex Court in '**Commissioner of Income tax Vs. Dhanalekshmi**

Bank Ltd., [2015] 373 ITR 526 (SC)', where the tax effect was low, had dismissed the appeal without going into the merits of the appeal leaving the question of law open.

4. In view of the aforesaid, the present appeal is dismissed. It is, however, clarified that dismissal of the appeal shall not be taken to be affirmation of order of the Tribunal on merits. Further, the legal issue as claimed by the revenue is being left open to be adjudicated in an appropriate case.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

December 17, 2018
J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No