

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

Civil Writ Petition No. 5282 of 2017
Date of Decision: 17.01.2018

M/s Amitt Enterprises

.....Petitioner

versus

Designated Authority, office of the Deputy Commissioner of Customs,
CFS (PSWC), Ludhiana

.....Respondent

**CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present : Mr.Vishal Sharma, Advocate
for the petitioner.

Mr. Saurabh Goyal, Sr. Standing Counsel
for the respondent.

S.J.VAZIFDAR, CHIEF JUSTICE (ORAL)

The petitioner has challenged the demand notice issued by the respondent i.e. the adjudicating authority. The petitioner had earlier filed CWP No.10249 of 2016 challenging the same demand notice which was disposed of by an order and judgment dated 30.05.2016. The petitioner withdrew the petition to enable him to file an appeal under Section 9C of the Customs Tariffs Act, 1975. Thereafter, the petitioner filed CWP No.14083 of 2016 as the President of the Tribunal had not been appointed and his appeal, therefore, had not been heard. The writ petition was disposed of by an order and judgment dated 04.08.2016 by recording the statement on behalf of the petitioners themselves that as the President of the Tribunal had been appointed, they may be permitted to withdraw the present petition with liberty to avail the statutory remedy of appeal.

Ultimately the appeal was disposed of by the Appellate Tribunal on 02.01.2017. The Appellate Tribunal held that the appeal against the assessment order lies to the Commissioner (Appeals) and not to the Tribunal directly. The petitioners claimed that they were not aware of this order till a copy thereof was filed with the affidavit in reply. The petition therefore does not survive.

The petitioner contends that the order of the Tribunal is erroneous as the Tribunal failed to exercise its jurisdiction. Even otherwise, the petitioner has a remedy in that event to challenge the order dated 02.01.2017. Therefore, the petition no longer survives and is disposed of as such with liberty to the petitioner to challenge the order dated 02.01.2017 or to avail the remedy of an appeal before the Commissioner (Appeal) as held by the impugned order dated 02.1.2017.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(AVNEESH JHINGAN)
JUDGE

17.01.2018
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