IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CUSAP 8/2019 (O&M)
Date of decision:28.11.2019.

Commissioner of Customs, Amritsar

.............Appellant.

v.

VRA Cotton Mills (P) Ltd.

.............Respondent

Coram: Hon'ble Mr.Justice Jaswant Singh
Hon'ble Mr.Justice Sant Parkash

Present:- Mr.Anshuman Chopra,Advocate for the appellant

Jaswant Singh,J.

Revenue is in appeal against the order dated 23.8.2017 passed by CESTAT whereby appeal filed by the respondent was allowed and the request of respondent for conversion of DFIA to drawback scheme was allowed. The following substantial questions have been raised in this appeal for adjudication by this Court:-

A. Whether the observations and findings contained in the impugned judgment are perverse, contrary to law and to record and are liable to be set aside?

B. Whether the observations and findings of the Tribunal are based on conjectures and surmises and are a result of misreading of fact and law and thus are liable to be set aside?

C. Whether the Tribunal has committed substantial error of law in allowing conversion of DFIA Shipping Bills into drawback shipping bills under the guise of amendments allowed under Section 149 of the Customs Act, which is a 'General Provision' to amend the documents presented in a Custom House?

D. Whether the Tribunal has committed substantial error of law in ignoring the guidelines/instructions contained in Central Board of

Excise and Customs, New Delhi (C.B.E.& C) Circular No.36/2010-Cus, dated September 23rd,2010, which has provided one of the conditions in para 3(a) that request for such conversion is to be made by the respondent within three months from the date of Let Export Order (LEO)?

E.Whether the plea made by the exporter for treating their application under Rule 12(1)(a) of the Drawback Rules read with Board's Circular No.74/97 dated 30.12.1997 for grant of the All Industry Drawback rate without conversion of Shipping Bills is admissible or not?

F. Whether the order passed by the Tribunal is non-speaking and the Tribunal should have decided the matter in hand on merits and should have dealt with all the issues as raised by the appellant.

Notice of motion is yet to be issued.

Learned counsel for the appellant at the time of hearing admits that vide instructions dated 22.8.2019, the Central Board of Indirect Taxes and Customs (CBIC) has prescribed the monetary limits for filing and prosecuting appeals in this Court at Rs.1 crore and above. It is further admitted that in view of the said instructions the instant appeal before this Court would not be maintainable as the demand involved herein is below the monetary limit prescribed by CBIC.

In view of the above,instant appeal is dismissed as not maintainable.

Since the main appeal stands dismissed, the applications seeking condonation of delay, placing on record certain documents and seeking stay also stand dismissed.

(Jaswant Singh)
Judge

28.11.2019. **(Sant Parkash)**
joshi **Judge**