

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

CUSAP 9/2019(O&M)
Date of decision:04.12.2019

Commissioner of Customs, ICD GRFL, GT Road,
Sahnewal,Ludhiana

.....Appellant

v.

Ghaio Mall and Sons

.....Respondent

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

Present:- Mr.Amit Goyal,Sr.Standing Counsel for CBEC.

Jaswant Singh,J(Oral).

Revenue is in appeal under Section 130(1) of Customs Act,1962 against the order dated 12.9.2018 passed by CESTAT whereby the appeal filed by respondents was allowed and it was held entitled to claim refund of Rs.4,00,442/- on account of additional duty of Customs, which claim was rejected by Commissioner(Appeals) being hit by bar of limitation of one year.

In this appeal the following substantial questions of law have been raised:-

- (i).Whether a notification issued under the provisions of Section 25 of the Customs Act,1962 be treated as ultra vires.
- (ii).Whether the time limitation of one year specified in para 2(c) of the Notification No.102/2007 dated 14.09.2007 as amended by Notification No.93/2008-Cus dated 01.08.2008 is applicable.
- (iii).Whether time limit prescribed in taxation cases are not essential as otherwise an endless wait may defeat the purpose of law.

(iv).Any other substantial question of law as the Hon'ble High Court may determine in the facts of the case.

Notice of motion is yet to be issued.

At the time of hearing,learned counsel for the appellant, does not dispute the fact that in view of instructions dated 30.12.2016 issued by Govt.of India, Ministry of Finance, Department of Revenue, Central Board of Excise and Customs the monetary limit for filing of appeals before this Court has been fixed at Rs.20 lacs and as such the instant appeal is not maintainable, the amount involved being Rs.4,00,442/-.

In view of the above, the instant appeal is dismissed as not maintainable. However, the substantial questions of law raised herein would remain open.

(Jaswant Singh)
Judge

04.12.2019.
joshi

(Sant Parkash)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No