IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CUSAP No. 7 of 2018 (O&M)
Decided on : 22.01.2019

Commissioner of Customs

. . . Appellant(s)

Versus

M/s Amira Foods (India) Ltd.

. . . Respondent(s)

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

PRESENT: Mr. Anshuman Chopra, Advocate
for the appellant(s)-revenue.

Mr. Amrinder Singh, Advocate
for the respondent(s)-assessee.

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AJAY KUMAR MITTAL, J. (Oral)

CM No. 6674-CII of 2018

This is an application under Section 151 CPC, seeking condonation of delay of 94 days in re-filing the appeal.

Notice of this application was issued.

After hearing learned counsel for the parties, perusing the averments made in the application, which is supported by an affidavit, the same is allowed and the delay of 94 days in re-filing the appeal is hereby condoned.

CM stands disposed of accordingly.

CM No. 6675-CII of 2018

Allowed as prayed for.

CUSAP No. 7 of 2018

The present appeal filed under Section 130 of the Customs Act, 1962, laying the challenge to the order dated 11th July, 2016 (Annexure A-1), passed by the Customs, Excise & Service Tax Appellate Tribunal, Sector 17, Chandigarh in Appeal No. C/604/2010.

2. A perusal of the case file shows that the tax effect involved in the present appeal is ₹ 12,00,000/- [i.e. ₹ 8,00,000/- (redumption fine) + ₹ 4,00,000/-

(penalty)]. Further, in view of the 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No.3 of the aforesaid instructions, it has also been stated that wherever, monetary limit is less, the appeal shall be withdrawn and the said instruction is applicable to all the pending appeals in the High Courts.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. 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

January 22, 2019
J.Ram

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