IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CUSAP-8-2018 (O&M)
Decided on: 21.01.2019

Commissioner of Customs, Ludhiana .... Appellant

Versus

M/s. H.L.G. Trading ..... Respondent

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

Present: Mr. Amit Goyal, Advocate
for the appellant.

Mr. Deepak Gupta, Advocate
for the respondent.

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AJAY KUMAR MITTAL, J (ORAL)

This order shall dispose of CUSAP Nos. 8 to 15 of 2018, as according to the learned counsel for the appellant, the issue involved in these appeals is identical. However, the facts are being extracted from CUSAP No. 8 of 2018.

2. In this appeal filed under Section 130(1) of the Customs Act, 1962 challenge is to the CESTAT Order No.A/61265 of 2017 dated 13.07.2017 (Annexure P-3) passed by the Customs, Excise & Service Tax Appellate Tribunal, Sector-17, Chandigarh in Appeal No.60094 of 2017.

3. The respondent had claimed the interest of ₹774981/- as per details given below:-

S.No.	Refund File No.	Date of Receipt	Refund Claimed	Refund Order/dt.	Amount Sanctioned	Total no. of days after deducting 90 days	Interest @ 15%

1.	1032	08.10.2014	250045	1113/AC/CFS/CRC /Ldh/2016 dt. 31.08.2016	250045	603	61963
2.	1090	20.10.2014	175194		175194	590	42478
3.	1140	31.10.2014	845023		845023	579	201069
4.	1189	14.11.2014	172641		172641	560	39731
5.	1419	07.01.2015	1483735		881364	511	185075
6.	637	30.06.2015	452758	1029/AC/CFS/CRC /Ldh/2016 dt. 22.08.2016	452758	316	58797
7.	702	16.07.2015	1254327	1114/AC/CFS/CRC /Ldh/2016 dt. 31.08.2016	1165395	320	153257
8.	1087	23.10.2015	372556	1028/AC/CFS/CRC /Ldh/2016 dt. 22.08.2016	372556	213	32611
Total							774981

4. However, the Assistant Commissioner of Customs accepted the interest payable against delayed refunds amounting to ₹3,09,988/- and rejected the remaining balance claim of ₹4,64,983/-. The details of which are as follows:-

S.No.	Refund File No.	Date of Receipt	Refund Claimed	Refund Order/dt.	Amount Sanctioned	Total no. of days after deducting 90 days	Interest @ 6%
1.	1032	08.10.2014	250045	1113/AC/CFS/CRC /Ldh/2016 dt. 31.08.2016	250045	603	24785
2.	1090	20.10.2014	175194		175194	590	16991
3.	1140	31.10.2014	845023		845023	579	80428
4.	1189	14.11.2014	172641		172641	560	15892
5.	1419	07.01.2015	1483735		881364	511	74035
6.	637	30.06.2015	452758	1029/AC/CFS/CRC /Ldh/2016 dt. 22.08.2016	452758	316	23519
7.	702	16.07.2015	1254327	1114/AC/CFS/CRC /Ldh/2016 dt. 31.08.2016	1165395	320	61303
8.	1087	23.10.2015	372556	1028/AC/CFS/CRC /Ldh/2016 dt. 22.08.2016	372556	213	13045
Total							309998

The tax effect involved in these eight appeals is only ₹3,09,998/-. In view of the order of the Apex Court in **'Commissioner of Income Tax Vs. Dhanalekshmi Bank Ltd., [2015] 373 ITR 526 (SC)'**, where the Supreme Court had dismissed the appeal without going into the merits of the appeal due to low tax effect leaving the question of law open, the present appeals are dismissed. It is, however, clarified that dismissal of the appeals 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

21.01.2019
Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No