

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 127 OF 2022

J AND J ELECTRONICS., REP.
THR. ITS PROP., JOIT KUMAR
JAIN

... Petitioner.

Versus

COMMISSIONER OF CUSTOMS
(IMPORT)

... Respondent.

Mr. C.A. Ferreira, with Mr. Rajiva Srivastava and Mr. S. Kamulkar, Advocates for the Petitioner.

Ms. Asha Desai, Senior Central Govt. Standing Counsel for the Respondent.

**CORAM: M. S. SONAK &
BHARAT P. DESHPANDE, JJ.**

DATED: 9th November 2022

P.C.:-

1. Heard Mr. Ferreira for the Petitioner and Ms. Asha Desai, learned Senior Central Govt. Standing Counsel for the Respondent.

2. The challenge in this Petition is to the Order-in-Original dated 21/02/2020, complaining that the issue of jurisdiction was not decided by the Appellate Authority and even certain decisions that were cited, had not been considered. Therefore, by our order

dated 4th December 2019, we had set aside the impugned order and remanded the matter to the Original Authority, *inter alia*, to decide on the issue of jurisdiction, afresh.

3. By the impugned order, the Original Authority has ruled that it had jurisdiction in the matter and further, even on merits, ruled against the Petitioner.

4. As against the impugned order, the Petitioner has a statutory remedy of an appeal before the CESTAT. Such a remedy, according to us, is both, alternate as well as efficacious. By availing of such a remedy, the Petitioner would be in a position to not only challenge the findings about jurisdiction, but also the merits of the matter.

5. Accordingly, we do not propose to entertain the present Petition. But, we reserve the liberty to the Petitioner to avail of the alternate and efficacious remedy of an appeal before the CESTAT.

6. At this stage, we record that this Petition was instituted on 3rd September 2020. The Petitioners were pursuing this Petition bonafide before us. COVID-19 Pandemic also intervened in between and, therefore, this Petition could not be taken earlier for consideration. We are sure that the CESTAT will consider all these circumstances should the Petitioner avail of the remedy of

appeal within six weeks from today.

7. Accordingly, we dispose of this Petition by relegating the Petitioner to avail of the alternate and efficacious remedy before the CESTAT. We clarify that we have not examined any of the issues raised in this Petition because, we think that such issues should be dealt with by the CESTAT, in the first instance.

8. Thus, leaving open all the contentions on the issue of jurisdiction, we dispose of this Petition, with liberty in the above terms. There shall be no order for costs.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.

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