THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN
AND
THE HON'BLE SRI JUSTICE C.V.BHASKAR REDDY

WRIT PETITION Nos.23832, 23964 and 24252 of 2007

COMMON ORDER: *(Per the Hon'ble the Chief Justice Ujjal Bhuyan)*

Heard Mr. T.B.B.Krishna Mohan, learned counsel for the petitioners and Mr. Swaroop Oorilla, learned counsel for the respondents.

2. All the writ petitions arise out of a common order dated 03.09.2007 passed by the Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench at Mumbai (CESTAT) disposing of the appeals filed by the petitioners being Appeal Nos.C/660 to 662/04 – Mum.

3. All the three appeals arose out of six shipping bills dated 06.01.2001 filed by M/s. Ganesh Yarntex Exports (P) Ltd., Secunderabad and five shipping bills also dated 06.01.2001 filed by M/s. Aadee Exports & Imports, Secunderabad. The goods were declared as dyed and printed night wears (maxis) in various sizes and designs

and were on consignment to Dubai. Sri Deepak Jhunjhunwala is the proprietor of the two firms. Following adjudication by the Commissioner, the goods were confiscated under Section 113(d), (h) and (i) of the Customs Act, 1962 though option was given to the exporter to redeem the confiscated goods on payment of redemption fine. That apart, penalties of various amounts were imposed on Sri Suresh Jhunjhunwala and three others. The confiscation was made as the Commissioner held that the shipping bills were filed mis-declaring the goods and by overvaluing the goods. Thus, there was contravention of Rule 11 of the Foreign Trade (Regulation) Rules, 1993.

3.1. On appeal, CESTAT reversed the order of the Commissioner.

3.2. Revenue preferred civil appeal before the Supreme Court. Taking the view that CESTAT did not advert to the materials brought on record, Supreme Court remanded the matter back to the CESTAT. This is how the matter was considered by the CESTAT.

3.3. After a detailed analysis, CESTAT upheld the order of confiscation. Insofar penalties imposed were concerned, CESTAT took the view that though the penalties were rightly imposed, nonetheless, those were excessive. Accordingly, quantum of penalties were reduced.

4. Instead of filing appeal under Section 130 of the Customs Act, 1962, petitioners have preferred the present writ petitions assailing the order of the CESTAT on the ground that CESTAT, Mumbai, did not have the jurisdiction to hear the appeals as the jurisdiction was with CESTAT, Bangalore.

5. We are unable to accept this contention because firstly from the order of CESTAT we do not find that such a plea was raised by the petitioners before CESTAT. That apart, CESTAT had heard the matters after being remanded by the Supreme Court. On remand, CESTAT could not have said that it did not have jurisdiction.

6. The three writ petitions are pending before this Court since the year 2007 without any interim order.

7. That being the position, on the ground urged and at this distant point of time, we are not inclined to entertain the writ petitions.

8. All the writ petitions are accordingly dismissed.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

UJJAL BHUYAN, CJ

C.V.BHASKAR REDDY, J

14.11.2022
vs