OD SUPPL 1

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (CUSTOMS)
ORIGINAL SIDE

CUSTA/20/2024
IA NO: GA/1/2024, GA/2/2024
COMMISSIONER OF CUSTOMS PREVENTIVE
KOLKATA
VS
M/S RAYMOND APPAREL LTD.

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
DATE : 12th APRIL, 2024.

Appearance :
Mr. Shiv Shankar Banerjee, Adv.
Mr. Tapan Bhanja, Adv.
....for appellant
Mr. Rahul Tangri, Adv.
Ms. Udita Saraf, Adv.
...for respondent

The Court :- We have heard learned Counsel on either side.

There is a delay of 80 days in filing the appeal. Since the delay has been properly explained the delay is condoned.

This appeal filed by the revenue is directed against the order passed by the Customs, Excise and Service Tax Appellate Tribunal, East Zonal Bench, Kolkata (the Tribunal) dated 2.5.2023 by which the said application filed by the department was rejected. On going through the impugned order we find that the learned Tribunal upon considering the reasons assigned by an adjudicating authority in his order dated 24.05.2021 has recorded prima facie finding that there is nothing ex facie, illegal in such a manner.

With regard to the prayer for State it is always the discretion of the learned Tribunal and we find that there is no error in the manner in which the discretion has been exercised and the prayer has been negated. We are informed that in terms of the order passed by the Appellate Authority namely the Commissioner of Customs (Appeals), Calcutta, the refund has been effected to the respondent assessee. Thus we find there is no substantial question of law arising for consideration in this appeal.

Hence, the appeal fails and dismissed.

Learned Tribunal shall consider grounds canvassed by the department in appeal and give some precedence for final hearing of the appeal as per the business of the learned Tribunal may permit, preferably within a period of four weeks.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA,J.)

pkd/GH.