ORDER O – 397

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

CUSTA/1/2017
COMMISSIONER OF CUSTOMS (PREV.), W.B. CUSTOMS HOUSE
VERSUS
SUDARSHAN JANA & ANR.

BEFORE :

THE HON'BLE JUSTICE SURYA PRAKASH KESARWANI
AND
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ

Date : 1st March 2024.

Appearance:

Mr. B.P. Banerjee, Advocate
Mr. Abhradip Maity, Advocate
… for the appellant.

Mr. Deepak Sharma, Advocate
… for the respondents.

1. Heard Sri B.P. Banerjee, learned senior standing counsel for the appellant and Sri Deepak Sharma, learned counsel for the respondents.

2. This appeal has been filed praying to set aside the order dated 09.08.2016 in Appeal No.C/75084/16 (Order No. FO/A/75852/2016) passed by the Customs Excise and Service Tax Appellate Tribunal, Kolkata, Eastern Zonal Bench: Kolkata. We have perused the impugned order of the Tribunal. In paragraph 4 of the impugned order, the Tribunal has framed two questions as under:-

"(i) Whether absolute confiscation of Rs.59,41,550/- Indian currency has been correctly made by the Adjudicating authority

under Sec 113 of the Customs Act 1962, by rejecting the claim of the appellant?

(ii) Whether penalty has been correctly imposed upon the appellant under Sec 114 AA of the Customs Act 1962 for making a false claim & submitting forged documents?"

3. The Tribunal has recorded its finding with regard to question No.(i) in paragraphs 4.1 and 4.1.1 of the impugned order that there was absolutely no material on record to show that the seized currency was attempted to be exported out of India and that the respondent herein are the owners of the seized currency. The adjudicating authority has passed the order on the presumption that the seized currency is proposed for illegal exportation of goods, whereas such an allegation was not made in the show-cause notice dated 28.011.2014. After detailed discussion, the Tribunal has set aside the adjudication order and directed for release of the seized currency of Rs.59,41,550/-. Consequently, the penalty imposed under Section 114AA of the Customs Act, 1962 was also set aside.

4. We find that the findings recorded by the Tribunal are findings of fact based on consideration of relevant evidences on record. Therefore, no substantial question of law is involved in the impugned order of the Tribunal. That apart, the value of the confiscated currency is less than the monetary limit fixed by the Central Government vide Circular dated 02.11.2023 for filing appeals.

5. For all the reasons aforestated, the appeal is dismissed at the admission stage.

(SURYA PRAKASH KESARWANI, J.)

(RAJARSHI BHARADWAJ, J.)

S. Kumar