OD-14

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION [CUSTOMS]
ORIGINAL SIDE

CUSTA/32/2024
IA NO: GA/2/2024
COMMISSIONER OF CUSTOMS PORT KOLKATA
VS
M/S ARUN MUKHERJEE AND COMPANY PVT LTD

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S SIVAGNANAM
-A N D-
HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
DATE : 26TH APRIL, 2024.

Appearance :
Mr. K. K. Maity, Adv.
Mr. Tapan Bhanja, Adv.
…for appellant.
Mr. H. K. Pandey, Adv.
Mr. T. K. Mitra, Adv.
…for respondent.

The Court :- This appeal filed by the revenue is directed against the order dated 2.8.2023 passed by the Customs, Central Excise & Service Tax Appellate Tribunal, East Zonal Bench, Kolkata (Tribunal) in Appeal no.75750 of 2015.

The revenue has raised the following substantial question of law for consideration.

> "Whether the Show Cause Notice issued on 12.8.2014 after receipt of offence report and all relied upon documents on 19.06.2014 can be considered as beyond the stipulated time period prescribed under Regulation 22[1] of the said CHALR, 2004 [Now Regulation 20(1) of the CBLR, 2013] ? "

We have heard learned advocates on either side.

The respondent, who is a Custom House Agent, had filed the appeal before the Tribunal challenging the order passed by the Commissioner of Customs [Airport & Administration], Custom House, Kolkata revoking the Customs House licence granted to the respondent in exercise of the powers conferred under Regulation 20 of the

Customs House Agents Licensing Regulations, 2004 [now Regulation 18 of Customs Broker Licensing Regulations, 2013]. The said appeal was allowed by the Tribunal by the impugned order and the revenue has challenged the same in this appeal.

After we have elaborately heard the learned advocates for the parties, we find that learned Tribunal was fully justified in allowing the appeal filed by the respondent after noting that the show cause notice was issued after four years and three months and inquiry report was submitted after 197 days and all these are well beyond the time limit prescribed under Circular No.9/2010 dated 8.4.2010. The learned Tribunal also referred to the decision in the case of Leo Cargo Services vs. Commissioner of Customs, Airport & General, New Delhi [2022(382) ELT 30 (Del.)].

Thus, we find on facts the learned Tribunal having found that the show cause notice was issued well beyond the period within which it has to be issued granted the relief. Thus, we find no question of law much less substantial question of law arising for consideration in this appeal. Accordingly, the appeal is dismissed.

The stay application IA NO: GA/2/2024 also stands dismissed.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

pkd/SN.