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

CUSTA/46/2024
IA NO: GA/1/2024
Commissioner Of Customs Port Kolkata
Commissionerate
VS
M/s Tata Global Beverages Ltd

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S SIVAGNANAM
-A N D-
HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
DATE : 10th May, 2024.

Appearance :
Mr. K.K. Maity, Adv.
Mr. Tapan Bhanja, Adv.
….for appellant
Mr. Deepro Sen, Adv.
Mr. Shovit Betal, Adv.
…for respondent.

The Court :- This appeal is directed against the order dated 25.09.2023 passed by the Customs, Excise and Service Tax Appellate Tribunal, Kolkata in Customs Appeal no. 154 of 2012.

The Revenue has suggested the following substantial questions of law for consideration :-

a) Whether the order dated 25.09.2023 passed by the Learned Tribunal is in contravention of Board's *Instructions* dated *17.08.2011, 17.12.2015 and 02.11.2023 as well as the decision of the Hon'ble Supreme Court or not ?*

b) Whether the instant appeal involved the question of refund issues which are of legal and/or recurring nature in terms of the National

Litigation Policy of the Board's *Instructions* dated *17.08.2011, 17.12.2015 and 02.11.2023* ?

We have heard Mr. Tapan Bhanja, learned Advocate.

The department is aggrieved by the order passed by the learned Tribunal, which dismissed the appeal filed by the department on the ground of low tax effect by referring to the National Litigation Policy. The contention of the department is that Clause "C" was inserted in the Notification dated 17.18.2011 and in cases where relevant issues are involved the monetary limit as stipulated in the National Litigation policy will not apply.

As rightly pointed out by the learned Advocate for the respondent, the Tribunal took note of the instruction issued by the Central Board of Excise & Customs dated 4.4.2018 by which the insertion of Clause "C" was in the notification dated 17.08.2011 was withdrawn. In the light of the said decision, the monetary limit prescribed in the National Litigation Policy will apply to the case on hand and the Tribunal was right in dismissing the appeal.

For the above reasons, the appeal stands dismissed.

The application also stands dismissed.

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(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

pkd/GH.