OD–38

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION
ORIGINAL SIDE

CUSTA/15/2023
IA NO: GA/1/2024
COMMISSIONER OF CUSTOMS (PREVENTIVE)
VS.
SHRI ASHOK JALAN

BEFORE :

THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 19th April, 2024

Appearance :
Mr. Kaushik Dey, Adv.
Ms. Aishwarya Rajyashree, Adv.
…for appellant

Mr. Arijit Chakraborty, Adv.
Mr. Nilotpal Chowdhury, Adv.
Mr. Debaditya Banerjuee, Adv.
Mr. Syed Wasim Faruque, Adv.
…for respondent

The Court : This appeal filed by the revenue under Section 130(1) of the Customs Act, 1961 (the Act) is directed against the order passed by the Customs, Excise & Service Tax Appellate Tribunal, Eastern Zonal Bench, Kolkata dated 31st December, 2021.

The revenue has raised the following substantial questions of law for consideration :

i) Whether the Learned Tribunal erred in law in not holding that the statements of the Noticee No.1 i.e., Rajendra Kumar Damani was voluntary, while giving credence to the Noticees submission that they were retracted. The statements made by Noticee No. 1 on 07.08.2018, 08.08.2018 and 25.07.2019 were all in his own handwriting and in his vernacular, which indicates that the statements were all voluntary ?

ii) Whether the Learned Tribunal erred in law in not holding that the third statement, which is also in Rajendra Kumar Damani own handwriting and in his vernacular, is after the gap of almost a year, in which Rajendra Kumar Damani has reiterated his original statements. The attempted retraction was almost a year after the initial statement and the noticee had made no mention of any threat or coercion in the initial bail hearing, and hence has to be construed as an after thought ?

We have heard Mr. Kaushik Dey, learned Counsel appearing for the appellant and Mr. Arijit Chakraborty, learned Counsel for the respondent.

On perusal of the impugned order, we find that the penalty which has been imposed on the assessee which was set aside by the Tribunal against which the revenue is in appeal is far below the threshold limit fixed under the Notification issued by the CBDT. Thus, on the ground of monetary policy revenue cannot proceed with this appeal.

Consequently, the appeal stands disposed of on the ground of monetary limit and consequently, substantial questions of law which have been suggested are left open.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

SN.
AR(CR)