IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CUSTOMS APPEAL NO. 26 OF 2024

Commissioner of Customs JNCH,
Nhava Sheva - II ....Appellant

V/s.
Jindal Drugs Private Limited ...Respondent

Mr. Subir Kumar a/w Ms. Maya Majumdar, Mr. Abhinav Palsikar and Ms.Vaishnavi Pawar for Appellant.
Mr. Prakash Shah a/w Mr. Jas Sanghavi i/b PDS Legal for Respondent.

CORAM : K.R. SHRIRAM &
JITENDRA JAIN, JJ.
DATED : 26th JUNE 2024

P.C. :

1. We find that the order impugned in the petition is dated 15th December 2022 and the appeal has been lodged only on 22nd August 2023. When we asked Mr. Subir Kumar as to how the appeal could be stated to be within the limitations prescribed, Mr. Subir Kumar referred to Paragraph No.2 of the Appeal Memo – 2 and stated that the impugned order was received on 8th May 2023. We find in one set of the Appeal Memo, in Paragraph No. 11, date 10th July 2023 is written as the date on which the copy of the order was received.

2. We also find in prayer clause – (a), it is stated the substantial questions of law are proposed in Paragraph no.4 whereas in the body of the petition we find the substantial questions of law are proposed in Paragraph No.5.

3. Petitioner, personally shall file an affidavit and not through any Assistant Commissioner explaining these errors and also show evidence on which date the order was received. Referring to Page No. 57 of the Appeal Memo, Mr. Shah states the order has been despatched to appellant on 19th December 2022 itself and it is such unlikely that it has taken over five months to reach Nhava Sheva from Mumbai. Affidavit to be filed and copy served within one week from today. Appellant shall also explain how these errors have crept in the Appeal Memo and whether he read the Appeal Memo before it was filed and whether the Assistant Commissioner of Customs who has signed and declared the appeal read the Appeal Memo before signing and declaring the same.

4. The circulation was granted because appellant wanted stay of the order passed by the Customs, Excise And Service Tax Appellate Tribunal, Mumbai. Since we are not satisfied that this appeal is filed within limitation the question of granting any relief also would not arise.

5. Stand over to 10th July 2024.

(JITENDRA JAIN, J.) **(K.R. SHRIRAM, J.)**