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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of decision: 06.05.2024

CUSAA 21/2023
COMMISSIONER OF CUSTOMS ..... Appellant
versus
NARESH CHANDAN ......Respondent
&
CUSAA 24/2023
COMMISSIONER OF CUSTOMS ..... Appellant
versus
SHRI RAM PARKASH SINGHAL ..... Respondent

Advocates who appeared in this case:

For the Appellant: Mr. Harpreet Singh, SSC with Ms. Suhani Mathur & Mr. Jatin Kumar Gaur, Advocates.
For the Respondent: None.

CORAM:-
HON'BLE MR. JUSTICE SANJEEV SACHDEVA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CUSAA 21/2023 & CM APPL. 14453/2023 (delay of 1910 days)
CUSAA 24/2023 & CM APPL. 14459/2023 (delay of 1904 days)

1. These appeals raise a question which has been subject matter of several petitions and in identical circumstances, the cases have been remitted to the Customs Excise and Service Tax Appellate Tribunal (CESTAT for short). Three similar appeals were listed before us today being CUSAA 15/2019 titled *Commissioner of Customs vs Balaji*

Exports, CUSAA 45/2019 titled *Commissioner of Customs vs Shri Vinod Popli, Prop M/s Venus Arts* and CUSAA 55/2019 titled *Commissioner of Customs vs Wonder Trade Links* wherein in similar circumstances, the delay in filing the appeals was condoned.

2. In view of the above, the delay in filing these appeals are condoned.

CUSAA 21/2023 & CUSAA 24/2023

3. Respondents were directed to be served through publication vide order dated 24.05.2023. Publication was duly effected and order dated 10.01.2024 records that none had appeared on behalf of respondents despite service through publication.

4. None appears for the respondents even today. Respondents are accordingly proceeded *ex parte.*

5. These appeals impugned the final orders dated 09.06.2017 and 15.06.2017 respectively.

6. Learned counsel for the appellants state that the question of law involved in the present case stands decided by a Coordinate Bench of this court in *Vipul Overseas Pvt. Ltd v. Commissioner of Customs & Ors.*: CUSAA No. 57/2017, decided on 20.11.2017; *Forech India PVT. LTD v. Commissioner Of Customs Inland Container Depot, Tughlakabad, New Delhi:* CUSAA No.67/2017, decided on

13.12.2017; *Commissioner of Customs v. Arif Khichi*: CUSAA No.16/2018, decided on 23.05.2018.

7. The orders impugned in these appeals were passed by the CESTAT. By virtue of the said impugned orders, CESTAT has remanded the matter to the Adjudicating Authority for deciding the issue on the question of jurisdiction after the Hon'ble Supreme Court delivers the decision in civil appeal preferred against the decision of this court in *Mangali Impex Ltd vs Union Of India And Ors:2016 (335) ELT 605 (DEL)*.

8. The Coordinate Bench of this court has disposed of several appeals, finding that the orders passed by CESTAT to the aforesaid effect were not justified and further directing the CESTAT to decide the appeals on merit, including the question of jurisdiction, uninfluenced by the decision of this case of *Mangali Impex Ltd (Supra*), as the operation in the said order has been stayed by the Supreme Court.

9. It is also pointed out that the delay in filing the appeals has been condoned in all the cases as well.

10. In view of the above, we consider it apposite to also dispose of the appeals in similar terms.

11. The impugned orders are set aside. The appeals are restored before the CESTAT.

12. CESTAT is directed to decide the appeals on merits, including on the question of jurisdiction of the Commissioner of Customs(Preventive)/ Directorate of Revenue Intelligence(DRI) to issue the show cause notices, uninfluenced by the decision rendered by this court in *Mangali Impex Ltd (Supra).*

13. It is clarified that this court has not expressed any opinion on merits and CESTAT would be at liberty to take such view as it considers appropriate.

14. The appeals are disposed of in the aforesaid terms.

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

MAY 06, 2024/*sk*