



2024:DHC:3783-DB



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

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Date of decision: 08.05.2024

CUSAA 135/2022 & CM APPL. 41288/2022

THE PRINCIPAL COMMISSIONER OF CUSTOMS, ACC
IMPORTS NEW DELHIPetitioner

versus

M/S. SALASAR SYNTHETICS

..... Respondent

Advocates who appeared in this case:

For the Appellant: Mr. Anurag Ojha, Senior Standing Counsel with Mr. Subham Kumar, Mr. Satyam Parashar & Mr. Kumar Abhishek, Advocates

For the Respondent: Mr. Satish Chaudhary, Mr. Sanjay Chhabra & Mr. Sugandh Virmani, Advocates.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Appellant/Revenue impugns order dated 02.03.2022, whereby, the Customs Excise & Service Tax Appellate Tribunal (hereinafter referred to as "The Tribunal") has dismissed the appeal of the Revenue. The Revenue had impugned an Order-in-Appeal dated 08.03.2021. The assessee had filed the subject appeal challenging the



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Order-in-Original dated 14.08.2020, whereby, a redemption fine of Rs. 40 lakhs was imposed on the respondents/assessee under Section 125 of the Customs Act, 1962 [“the Act”] besides penalty of Rs. 20 lakhs under Section 112-A of the Act. By the Order-in-Appeal dated 10.03.2021, the redemption fine was reduced from Rs. 40 lakhs to Rs. 2.25 lakhs and the penalty was also reduced from Rs. 20 lakhs to Rs. 2.25 lakhs.

2. The impugned order passed by the Tribunal has set aside the Order-in-Original.

3. Learned counsel for the appellant contends that the Tribunal has erred in setting aside the Order-in-Original as the order in Original was not subject matter of the appeal before the Tribunal and the Tribunal could have at best dismissed the appeal of the Revenue and maintained the Order-in-Appeal and could not have set aside the Order in Original.

4. An objection has been raised by the learned counsel for the respondent that the appeal entails a total sum of Rs. 60 lakhs i.e. 40 lakhs which were imposed as redemption fine and Rs. 20 lakhs as penalty by the Order-in-Original and as such the appeal is liable to be dismissed in view of Instructions dated 02.11.2023 read with the Instructions dated 17.08.2011 and Instructions dated 20.10.2010 on the subject-“Reduction of Government litigation-providing monetary



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limits for filing appeals by the department before the CESTAT & High Courts or the Supreme Court” read with the subsequent Notification/Instructions amending the monetary limit.

5. By Instructions dated 20.10.2010, the Central Board of Indirect Taxes had fixed a monetary limit below which appeals were not to be filed by the department before the Tribunal, High Court or the Supreme Court, as the case may be. The monetary limit has undergone increase from time to time. The latest Instructions dated 02.11.2023 prescribes a monetary limit of Rs. 1 crore for appeals to the High Court. The Instructions further state that process has to be initiated for withdrawal of pending cases which are below the monetary limit.

6. In the subject case, the issue involved is with regard to redemption fine of Rs. 40 lakhs and penalty of Rs. 20 lakhs which cumulatively is below the threshold limit. Consequently, we are of the view that the appeal being below the monetary limit as prescribed by the Instructions is not maintainable and is accordingly dismissed on the ground of low tax effect.

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

MAY 08, 2024/vp

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