

OD - 10

IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction [Customs]

ORIGINAL SIDE

CUSTA/7/2025
IA NO: GA/1/2025, GA/2/2025
COMMISSIONER OF CUSTOMS PREVENTIVE KOLKATA
VS
M/S BABAJI SHIVRAM CLEARING AND CARRIERS

BEFORE :
THE HON'BLE CHIEF JUSTICE T.S SIVAGNANAM
And
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
Date : 21st May, 2025

Appearance :
Mr. Bhaskar Prasad Banerjee, Adv.
Mr. Tapan Bhanja, Adv.
..for appellant

Mr. Arijit Chakraborty, Adv.
Mr. Deepak Sharma, Adv.
Mr. Prabir Bera, Adv.
...for respondent

The Court : There is a delay of 249 days in filing the appeal. As the delay has been properly explained, the delay condonation application [GA/1/2025] is allowed and the delay in filing the appeal is condoned.

This appeal has been filed by the department challenging the order dated 3.11.2023 passed by the Customs, Excise and Service Tax Appellate Tribunal, Kolkata in Customs Appeal No.75062/2015 which was filed by the respondent and by the impugned order the appeal was allowed.

We have perused the order of adjudication passed by the Commissioner of Customs (Preventive) Kolkata and we find that the penalty imposed on the respondent is far below the monetary limit fixed in the circular issued by the Central Board of Indirect Taxes & Customs dated 2.11.2023 which has fixed the monetary limit of Rs.1 crore for filing the appeal by the department before the High Courts. Since admittedly penalty imposed is less than Rs.1 crore, the department cannot prosecute the appeal.

Accordingly, the appeal stands disposed of on the ground of low monetary limit and the substantial questions of law suggested by the department are left open.

In the result, the connected application [GA/2/2025] stands closed.

(T.S SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)

