Pallavi

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CUSTOM APPEAL NO. 56 OF 2024

Commissioner Of Customs Nhava Sheva-III …Appellant

Versus

Goyal Trading …Respondent

WITH
CUSTOM APPEAL NO. 58 OF 2024

Commissioner Of Customs Nhava Sheva-III ...Appellant

Versus

Unitech Inc. ...Respondent

WITH
CUSTOM APPEAL NO. 59 OF 2024

Commissioner Of Customs Nhava Sheva-III ...Appellant

Versus

Unitech Inc. ...Respondent

WITH
CUSTOM APPEAL NO. 13 OF 2025

Commissioner Of Custom NS III ...Appellant

Versus

Goyal Trading ...Respondent

WITH
CUSTOM APPEAL NO. 14 OF 2025

Commissioner Of Custom NH III ...Appellant

Versus

Gulab Fibres ...Respondent

Mr. Karan Adik a/w, *Ms Niyati Mankad (VC) and Ms. Priyanka Wagh, for the Appellant.*
Mr Anil Balani (VC)*, for the Respondent.*

CORAM M.S. Sonak &
Jitendra Jain, JJ.
DATED: 30 JULY 2025

PC:-

1. Heard Mr. Adik, learned counsel for the Appellants in all these appeals and Mr. Balani, learned counsel for the Respondents.

2. Custom Appeal No.50 of 2024 is not on board, but the same is taken on board with the consent of the learned counsel for the parties.

3. The monetary amount involved in all these appeals is collectively not more than Rs. 7.5 Lakhs. Accordingly, Mr. Balani placed reliance on Central Board of Indirect Taxes & Customs instructions dated 2 November 2023, which provide that the Revenue shall not file or pursue appeals where the monetary limit, insofar as the High Courts are concerned, is less than Rs. 1 Crore. In each of these appeals, admittedly, the monetary limits involved are less than or around Rs. 1 lakh or, in any event, the total monetary amounts in all these appeals, collectively, do not exceed Rs. 7.5 Lakhs.

4. Mr. Adik, however, refers to clause 2 of these instructions, in which it is stated that adverse judgments relating to classification and refund issues which are of a legal and/or recurring nature would not be covered by the aforesaid instructions.

5. However, in all these appeals, the challenge is to the Tribunal's orders quashing the penalties imposed on the Respondent-assessee. There is no formal direction for refund of the penalty amounts that might have been paid by the Respondent-assessees, though this would be the logical consequence in the absence of any provision to the contrary. These are not the refund issues referred to in the CBIC instructions.

6. Clause 2 of the instructions dated 2 November 2023 states that adverse judgments related to amounts, aside from classification and refund issues, which are of a legal and/or recurring nature, should be challenged. However, in the current appeals, there are no refund issues as contemplated under the instructions dated 2 November 2023. The instructions refer to typical refund issues or those arising from the resolution of classification issues in any assessment. Such issues could have broad implications, far beyond the individual assessee's case. But the instruction would not include cases or situations where the penalty imposed on an individual assessee is quashed, with or without specific directions for refunding the quashed penalty amount.

7. Therefore, these appeals are impacted by instructions dated 2 November 2023 and will have to be disposed of on the grounds of the monetary benefits coupled with a policy of the appellants not to pursue such appeals.

8. However, the questions of law raised in these appeals are expressly left open. Disposal of these appeals on grounds of monetary limits may not be construed as our approval or, for that matter, disapproval of the view taken by the Tribunal in these matters.

9. Mr. Adik, in fact requested us to refer to the decision of the CESTAT in **Scania Commercial Vehicles India Pvt. Ltd. vs. Commissioner of Customs**[1] and the larger Bench of the Tribunal in the case of **Hemant Bhai R. Patel vs. Commissioner of Customs**[2] in which he claimed a view contrary to that in the impugned orders was taken.

10. Since we are expressly keeping the question of law open, we do not think that there will be any prejudice to the Revenue if they wish to agitate the issue now raised in these appeals in matters where the monetary limit exceeds that which is prescribed in the CBIC instructions. However, considering the monetary limits and the Central Board of Indirect Taxes & Customs instructions dated 2 November 2023, we dispose of these appeals by leaving the questions of law open. These appeals are disposed of in the above terms. No costs.

(Jitendra Jain, J) **(M.S. Sonak, J)**

1 2024 SCC OnLine CESTAT 587

2. 2003 (153) ELT 226