IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Civil Applciation (CAT) NO.26/2025 In Customs Appeal CAPL)
St.No.20186/2024

The Commissioner of Customs, Nagpur
versus
M/s Suryalakshmi Cottom Mills Ltd. and another

Office Notes, Office Memoramda of Coram, appearances, Court's orders of directions and Registrar's Orders.	Court's or Judge's orders.

Mr S.N. Bhattad, Advocate for the appellant.
Mr. Abhishek J.Bhoot, Advocate for respondent nos.1 and 2.

CORAM : ANIL L.PANSARE AND
SIDDHESHWAR S.THOMBRE, JJ.
DATE : 19th SEPTEMBER, 2025.

1. Heard.

2. Considering the trivial delay of 29 days and the reasons set out in the application, we allow the application. The delay in filing the appeal is condoned. The appeal shall be registered.

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3. Heard.

4. The challenge is to the order dated 14th March, 2024 passed by the Customs, Excise And Service Tax Appellate Tribunal, Mumbai, whereby the matter was remanded back to the Commissioner - the Adjudicating Authority in the following terms:

> "*We find that the show cause notice was issued consequent to cancellation of the `scrips' by the licensing authority which, itself, was prompted by reporting of the issue by the investigating agency. We find that the Hon'ble High Court of Telangana had since set aside the cancellation of the 'scrips' for restoration of status quo ante. This had*

sufficient impact on the outcome in the impugned order as to place it in jeopardy. In these circumstances, it will only be appropriate to have the matter decided afresh on facts and circumstances, as available, to enable which we set aside the impugned order and restore the dispute before the adjudicating authority for disposal of the show cause notice, preferably, within four months of receipt of this order."

5. Thus, the Appellate Tribunal noted that the High Court, Telangana had set aside the cancellation of `scrips' for restoration of *status quo ante.* The Tribunal further noted that the cancellation had sufficient impact on the outcome in the impugned order as to place it in jeopardy. Accordingly, the matter is remanded back to decide afresh.

6. Despite such status, the appeal has been filed primarily on the following substantial question of law:-

"***a.*** *Whether under given fact and under law the learned Tribunal erred in remanding the matter for afresh adjudication, without considering that sufficient evidence was available on record to substantiate that the Exporter has failed to adhere to the mandatory conditions of Entitlement Certificates which provided for Target Plus Duty Free credited Entitlement under the TPS Scheme, one of the export promotion schemes declared under Chapter 13 of the Foreign Trade Policy, 2004-2009.*

7. As could be seen, in substance, the substantial question of law is whether the Appellate Tribunal is empowered to remand matter back for consideration afresh. This, according to us, is not a question of law nor is there any dispute that the Appellate Tribunal is so empowered. Such question of law, therefore, could not have been agitated by the petitioner,

particularly when the petitioner revenue will not be put to any prejudice because the revenue will get an opportunity to put forth its case before the Adjudicating Authority.

8. That being so, there is no merit in the appeal. The appeal is accordingly dismissed.

(Siddheshwar S. Thombre, J) **(Anil L.Pansare, J.)**

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