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

\+ **CUSAA 68/2025 & CM APPL. 24402/2025**

COMMISSIONER OF CUSTOMS (AIRPORT AND GENERAL), NEW DELHI .....Appellant

Through: Mr. Harpreet Singh, SSC with Ms. Suhani Mathur & Mr. Jai Ahuja, Advs.

versus

M/S ATR LOGISTICS INDIA PVT. LTD. .....Respondent

Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

<u>O R D E R</u>

% 25.04.2025

1. This hearing has been done through hybrid mode.

<u>CM APPL. 24402/2025 (for exemption)</u>

2. Allowed, subject to all just exceptions. Application is disposed of.

<u>CUSAA 68/2025</u>

3. The present appeal has been filed by the Appellant under Section 130 of the Customs Act, 1962 challenging the impugned final order no. FO/ C/A/ 58753 / 2024-CU[DB] dated 24th September, 2024 *(hereinafter, 'the impugned order')* passed by the Customs, Excise and Service Tax Appellate Tribunal *(hereinafter, CESTAT)*.

4. The impugned order which is under challenge holds that the Department i.e., Commissioner of Customs would not be entitled to prefer an appeal under Regulation 19 of the Customs Brokers Licensing Regulations, 2018. The said Regulation reads as under:

> *"19. Appeal.-- A Customs Broker or F card holder, who is aggrieved by any order passed by the Principal*

Commissioner of Customs or Commissioner of Customs, as the case may be, under regulation l6 or regulation 17, may prefer an appeal under section 129A of the Act to the Customs, Central Excise and Service Tax Appellate Tribunal established under sub-section (I) of section 129 of the Act:

Provided that a G card holder aggrieved by any order passed by the Deputy Commissioner or Assistant Commissioner of Customs under these regulations may prefer an appeal under section 128 of the Act to the Commissioner of Customs (Appeals) against the orders of the Deputy Commissioner or Assistant Commissioner of Customs, as the case may be, who shall proceed to decide the appeal expeditiously within two months of the filing of the appeal."

5. The CESTAT, while passing the impugned order has relied upon a decision of this Court in ***Commissioner of Customs (Airport & General) v. Transworld Cargo & Travels (2023) 10 Centax 122 (Del.)*** to support the contention that an appeal by the Department i.e. Commissioner of Customs, against an order passed under the Customs Broken Licensing Regulations, 2018 is not maintainable. This issue had squarely arisen in the said case wherein the Coordinate Bench has held as under:

"7. In terms of Regulation 21 of the CBLR, 2013, an appeal against the order of the Commissioner is available only to the Custom Broker and not to the Revenue. The question whether an appeal by the Revenue would be maintainable is covered against the Revenue, by the decision of this Court in Commissioner of Customs (General) v. Falcon India: CUSAA No. 278/2018, decided on 10-10-2018/[2019 (368) E.L.T. 35 (Delhi)]. The said decision was also followed by a Co-ordinate Bench of this Court in Commissioner of Customs (General) v. D.S. Cargo Agency: CUSAA No. 233/2019, decided on 21-9-2022. The Court had held

> *that CBLR was a complete code.* ***Further, the expression "any person aggrieved" as used in Section 129A of the Customs Act, 1962 would not include Revenue insofar as any order passed by the Commissioner of Customs under the CBLR, 2013 is concerned.”***

6. Mr. Harpreet Singh, ld. Senior Standing Counsel submits that some of the matters where the issue has been raised regarding whether an appeal against an order passed under the Customs Broker Licensing Regulations, 2018 made by the Department– Commissioner of Customs is maintainable or not, are pending adjudication before the Supreme Court in ***SLP No. 14955/2022*** titled ***Commissioner of Customs (General) v. Falcon India.***

7. Since there are four decisions of Coordinate Benches of this Court holding that under Regulation 19 of Customs Broken Licensing Regulations, 2018, the Department would not be entitled to file an appeal, this Court follows the decision in ***Commissioner of Customs (Airport & General) (supra)*** and rejects the present appeal filed on behalf of the Department.

8. However, if there is any decision rendered by the Supreme Court which permits such an appeal, then the Department is free to approach the CESTAT for the purpose of revival of such appeal.

9. Present appeal is disposed of in these terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

APRIL 25, 2025/*Rahul/ss*