$~42 to 47

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

\+ **CUSAA 85/2024 & CM APPL. 69154/2024**

SHRI. ASHISH KUMAR .....Appellant

Through: Ms. Priyanka Goel, Adv.

versus

PRINCIPAL COMMISSIONER OF CUSTOMS (IMPORT) .....Respondent

Through:

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\+ **CUSAA 42/2025 & CM APPLs. 8307-08-09/2025**

SHRI ROSHANLAL .....Appellant

Through: Ms. Shreya Dahiya, Adv.

versus

PRINCIPAL COMMISSIONER OF CUSTOMS (IMPORT) .....Respondent

Through:

44

\+ **CUSAA 43/2025 & CM APPLs. 8314-15-16/2025**

M/S ZIPPO MOBILES PVT. LTD. .....Appellant

Through: Ms. Priyanka Goel, Adv.

versus

PRINCIPAL COMMISSIONER OF CUSTOMS (IMPORT) .....Respondent

Through:

45

\+ **CUSAA 44/2025 & CM APPLs. 8323-24-25-26/2025**

BANKE BIHARI ELECTRONICS PVT. LTD. .....Appellant

Through: Ms. Shreya Dahiya, Adv.

versus

PRINCIPAL COMMISSIONER OF CUSTOMS (IMPORT) .....Respondent

Through: Ms. Arunima Dwivedi, CGSC with

Ms. Pinky Pawar & Ms. Kritika Sharma, Advs.

46
+ **CUSAA 45/2025 & CM APPLs. 8330-31-32/2025**

SH. ASHOK UDHWANI .....Appellant

Through: Ms. Priyanka Goel, Adv.

versus

PRINCIPAL COMMISSIONER OF CUSTOMS (IMPORT) .....Respondent

Through:

47
+ **CUSAA 46/2025 & CM APPLs. 8333-34-35/2025**

SHRI DINESH UDHWANI .....Appellant

Through: Ms. Shreya Dahiya, Adv.

versus

PRINCIPAL COMMISSIONER OF CUSTOMS (IMPORT) .....Respondent

Through:

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

O R D E R

% 26.03.2025

1. This hearing has been done through hybrid mode.

2. The present batch of petitions have been filed under Section 130 of the Customs Act, 1962 challenging the common impugned ***Final Order No. 55814-55820/2024*** dated 27th May, 2024 passed by the Customs, Excise & Service Tax Appellate Tribunal, New Delhi (hereinafter '*CESTAT*') arising out of the common Show Cause Notice dated 22nd April, 2019.

3. At the outset, ld. Counsel for the Department has raised the question of

maintainability of these appeals.

4. On the last date *i.e.*, 27th February, 2025, this Court had, after *prima facie* examining the impugned order of CESTAT and the decision of the Coordinate Bench in ***Commissioner of Service Tax vs. Bharti Airtel Limited***, **2013:DHC:1058-DB** observed as under:-

> *"4. Prima facie after examining the impugned order of the CESTAT and the decision of the **Co-ordinate Bench of this Court in Commissioner of Service Tax vs. Bharti Airtel Limited, 2013:DHC:1058-DB**, this Court is of the opinion that there are issues relating to valuation as also classification of the imported goods, which have been considered in the impugned order.*
> *5. Accordingly, there is some merit in the argument of the Department that the appeals against the impugned order would have to be filed before the Supreme Court in terms of Section 130E of the Customs Act, 1962.*
> *6. Ld. Counsel for the Appellants wishes to seek instructions in the matter."*

5. Today, ld. Counsel for the Appellants has taken instructions. Ms. Shreya Dahiya ld. Counsel for the Appellant submits that the CESTAT has not taken into consideration the order passed by a Coordinate Bench of CESTAT in ***Jai Shiv Trading Co. v. Commissioner of Central Excise, New Delhi [2018 (359) ELT 208].***

6. The Appellants would, therefore, wish to file Rectification of Mistake (hereinafter '*ROM*") applications under Rule 41 of CESTAT Rules. She submits that the Appellants are, therefore, willing to withdraw the present appeals with liberty to approach the CESTAT with ROM applications.

7. In view of the above position, the appeals are dismissed as withdrawn with liberty to approach CESTAT with ROM applications in all the matters.

8. Needless to add that the benefit of Section 14 of the Limitation Act shall be given to the Appellants for the period during which the appeals were pending before this Court *i.e.*, from 22nd November, 2024 till today. The ROM applications, if filed, shall be considered on their own merits and the orders passed in these petitions shall have no bearing on the same.

9. The appeals are, accordingly, dismissed as withdrawn with liberty as aforesaid.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

MARCH 26, 2025

kk/ms