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IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction [Customs]

ORIGINAL SIDE

CUSTA/26/2026
IA NO: GA/1/2026
COMMISSIONER OF CUSTOMS (PORT)
VS
M/S AKASH EXPORTS, THROUGH ITS
PROPRIETOR SHRI RAJ KUMAR NAHATA (HUF)

BEFORE :
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
And
THE HON'BLE JUSTICE UDAY KUMAR
Date : 19th March, 2026

Appearance :
Mr. Vipul Kundalia, Sr. Adv.
Mr. Anurag Roy, Adv.
…for appellant.

Mr. Arnab Chakraborty, Adv.
Mr. Aniket Chaudhury, Adv.
..for respondent.

The Court : The Court: Learned counsel appearing for the appellant suggests the following substantial questions of law by filing the appeals under Section 130 of the Customs Act, 1962.

"i) Whether the Learned Tribunal committed substantial error in law in misinterpreting provisional release under Section 110A of the Customs Act, 1962, as provisional assessment under Section 18?

ii) Whether the Learned Tribunal committed substantial error in law in disregarding overwhelming evidence of smuggling and fraud, and by treating a clear case of systematic smuggling as a mere documentary or procedural issue?

iii) Whether the Learned Tribunal committed substantial error in law in incorrectly rejecting the value of re-determined by the department and accepting the declared/revised values of the imported goods in clear violation of Rule 9 of the Customs Valuation Rules, 2007?

iv) Whether the Learned Tribunal committed substantial error in law in setting aside the penalty under Section 114AA by treating it as merely consequential to the duty demand without appreciating the true scope of the section?

v) Whether the impugned order passed by the Learned Tribunal is perverse in both facts and law?"

Section 130 of the Customs Act 1962 speaks of appeal to High Court which is quoted below:-

> "130. Appeal to High Court. – (1) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal on or after the 1st day of July, 2003 (not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for the purposes of assessment), if the High Court is satisfied that the case involves a substantial question of law.
>
> (2) The [Principal Commissioner of Customs or Commissioner of Customs] or the other party aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be –
>
> (a) filed within one hundred and eighty days from the date on which the order appealed against is received by the [Principal Commissioner of Customs or Commissioner of Customs] or the other party;
>
> (b) accompanied by a fee of two hundred rupees where such appeal is filed by the other party;
>
> (c) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

[(2A) The High Court may admit an appeal after the expiry of the period of one hundred and eighty days referred to in clause (a) of sub-section (2), if it is satisfied that there was sufficient cause for not filing the same within that period.]"

The Customs Act, 1962 also speaks of appeal to Supreme Court which is quoted below:-

"130E. Appeal to Supreme Court. – An appeal shall lie to the Supreme Court from –

[(a) any judgment of the High Court delivered –

(i) in an appeal made under section 130; or

(ii) on a reference made under section 130 by the Appellate Tribunal before the 1st day of July, 2003;

(iii) on a reference made under section 130A, in any case which, on its own motion or on an oral application made by or on behalf of the party aggrieved, immediately after passing of the judgment, the High Court certifies to be a fit one for appeal to the Supreme Court; or]

(b) any order passed [before the establishment of the National Tax Tribunal] by the Appellate Tribunal relating, among other things, to the determination of any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment.

[(2) For the purposes of this Chapter, the determination of any question having a relation to the rate of duty shall include the determination of taxability or excisability of goods for the purpose of assessment.]"

On perusal of Sections 130 and 130E of the Customs Act, 1962 in our opinion, this appeal should be preferred before the Hon'ble Supreme Court under Section 130E of the Act.

The appeals and the connected applications preferred by the department are dismissed.

Leave is granted to the learned advocate-on-record of the appellant to receive certified copy of the tribunal from the department and replace it with a photocopy of the same.

(RAJARSHI BHARADWAJ, J.)

(UDAY KUMAR, J.)

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