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IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction [Customs]

ORIGINAL SIDE

CUSTA/29/2026
IA NO: GA/1/2026
COMMISSIONER OF CUSTOMS (PORT)
VS
M/S VAAYU PUTRA ENTERPRISES

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.

The Court : Learned counsel appearing for the appellant suggests the following questions of law for consideration :

"i) Whether the Learned Tribunal committed substantial error in law in summarily dismissing an appeal preferred by the Customs department on monetary grounds when the appeal itself was filed on the specific legal ground that the lower appellate authority had passed the order in contravention of a statutory rule (Rule 5 of the Customs (Appeal) Rules, 1982) and in violation of the Principles of Natural Justice?
ii. Whether the Learned Tribunal committed substantial error in law in not appreciating that an appeal challenging the very legality of an order (in this case, admitting evidence in violation of Rule 5 of the Customs (Appeal) Rules, 1982) falls under exception clause 2(a) of Instruction F. No. 390/Misc./30/2023-JC dated 02.11.2023, and whether the Learned Tribunal substantially erred in law by not considering this exception?
iii. Whether the Learned Tribunal committed substantial error in law in not appreciating that a quasi-judicial authority cannot legally ignore a clear, written admission by an assessee and subsequently rely on unverified "additional evidence" submitted at the appellate stage, in direct violation of Rule 5 of the Customs (Appeal) Rules, 1982?"

Heard learned counsel for the appellant and perused the impugned Tribunal's order dated 26.8.2025. The order of the learned Tribunal reads as under :

> "On perusal of records, we find that the amount involved in the present case is below Rs.50.00 Lakhs. Vide Board's Instruction under F. No. 390/Misc./30/2023-JC dated 02.11.2023 has specified the monetary limits and it has been notified that the Department shall not file Appeal before the Tribunal, if the amount of demand is less than Rs.50 Lakhs in the impugned order. Accordingly, the present Appeal filed by the Revenue is dismissed."

As the involvement of duty in this matter is less than Rs.6 lakhs and in view of Board's Instruction under F. No. 390/Misc./30/2023-JC dated 02.11.2023 and the amount in this case is much below the prescribed limit, the appeal and the application are dismissed.

(RAJARSHI BHARADWAJ, J.)

(UDAY KUMAR, J.)

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