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IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (CUSTOMS)
ORIGINAL SIDE

CUSTA/63/2024
IA NO: GA/2/2024

COMMISSIONER OF CUSTOMS (PORT) KOLKATA
VS
M/S. J. S. ENTERPRISE

BEFORE :
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
And
THE HON'BLE JUSTICE UDAY KUMAR
Date : 20th January, 2026

Appearance :
Mr. Vipul Kundalia, Sr. Adv.
Mr. Abhradip Maity, Adv.
Mr. Anindya Kanan, Adv.
Mr. Aayush Sharma, Adv.
...for the appellant

The Court :- Heard learned counsels for the parties.

Learned counsel appearing for the appellant suggested the following substantial questions of law:-

I. Whether the Learned Tribunal erred in relying upon the judgement of Mercantile India Limited -vs- CCE, Chennai [2007(214) ELT 540 (Tri. Mad.)] and not relying on the judgment of Friends Trading Co. -vs- UOI [2011(267) ELT 33(P&H)) and Munjal Showa Limited -vs- Commissioner of Customs & Central Excise, Delhi-IV[2022(382) ELT 145(S.C.)] ?

II. Whether the order of the Learned Tribunal is against the established legal principle that in case of purchase of fraudulently obtained DEPB the successor stands in the same footing as his predecessor ?

III. Whether a credit made available on a fraudulently obtained document becomes non est and no credit can be derived there on as fraud vitiates such a transaction ?

IV. Whether the order of the Learned Tribunal in setting aside the Order-in-Original is perverse and is liable to be set aside ?

Perused the order passed by the Tribunal and other necessary documents.

It is seen that the involvement of duty in this matter is below Rs.2 lakh. As per instruction dated 02.11.2023, the minimum monetary limit is Rs.1 Crore. Thus, as the amount of duty is Rs.99,000/-, redemption fine is Rs.50,000/- and penalty is Rs.50,000/- as per the instruction dated 02.11.2023 issued by the Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs, the appeal is not admitted.

The appeal is dismissed. GA/2/2024 stands also dismissed.

(RAJARSHI BHARADWAJ, J.)

(UDAY KUMAR, J.)

S.A/S. Mandi.