OD – 24

IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction [Customs]

ORIGINAL SIDE

CUSTA/64/2025
THE COMMISSIONER OF CUSTOMS(PORT),KOLKATA
VS
M/S. ALBERT DAVID LIMITED

BEFORE :
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
And
THE HON'BLE JUSTICE UDAY KUMAR
Date : 16th February, 2026

Appearance :
Mr. Abhradip Maity, Adv.
…for appellant.

The Court : Heard learned counsel appearing for the appellant. Perused the memorandum of appeal and the order dated 14th May, 2025 passed by the Customs, Excise and Service Tax Appellate Tribunal, Kolkata. The Tribunal's order is read as follows :

"1. The Revenue has filed this Appeal being aggrieved by the impugned Order-in-Appeal wherein the Commissioner(Appeals) has held that there was no necessity for the Appellant to file any Appeal before the higher authority seeking revision of classification on account of the exemption Notification.

2. On going through the Appeal papers, we find that the issue pertains to the import of goods during the period May 2014 to December 2014. During this period, the Appellants have claimed only one exemption whereas subsequently the CBEC vide DOFNo.334/5/2015-TRU dated 28.02.2015 has clarified that the Appellant would be eligible for two types of exemption. After this the Appellant have filed the refund claim on 18.12.2017.

2. The Adjudicating authority has rejected the refund claim on the sole ground that they have not preferred any further Appeal against the earlier classification granting only one *exemption. On appeal against Order-in-Original, the Commissioner (Appeals), after going through the case, has relied on the case law of* ***Aman Medical Products Ltd. v. Commissioner of Customs, Delhi [2010 (250) 30 (Del.)] and Micromax Informatics Ltd. v. Union of India [2016 (335) ELT 446 (Del.)]*** *and has held that there was no need for the Appellant to have approached the Commissioner (Appeals) for seeking the second exemption. Being aggrieved the Revenue is before us.*

3. We find that a clarification was issued by Govt. of India, Ministry of Finance vide DOF No.334/5/2015-TRU dated 28.02.2015. This itself would clarify that the second exemption is also allowed. Therefore, in such a case even on this ground the Appellant was not required to file any further Appeal since the refund granting person will not be sitting on judgement of any other order, but simply following the clarification given by the CBEC.

4. We also find that the Commissioner (Appeals) has correctly relied on the two cited decisions, wherein it was held that no Appeal is required to be filed in case of self-assessments. This was the law during the period under consideration in the present case."

5. In view of the foregoing, we uphold the impugned order and dismiss the appeal filed by the Revenue."

It is seen that the matter is regarding refund. We do not find any substantial question of law arising from this appeal and, thus, this appeal is dismissed.

(RAJARSHI BHARADWAJ, J.)

(UDAY KUMAR, J.)

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