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SooperKanoon Citation : sooperkanoon.com/28008

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Apr-11-2002

Reported in : (2002)(144)ELT631Tri(Mum.)bai

Judge : J Balasundaram, S T S.S.

Appellant : Auto Ignition Ltd.

Respondent : Commissioner of Customs, Acc

Judgement :

1. For reasons recorded below, we waive the pre-deposit of duty of Rs. 7,52,213.29 and penalty of Rs. 75,000/- imposed upon the applicants herein by the impugned order of the Commissioner of Customs, Chhatrapati Shivaji International Airport, Mumbai and take up the appeal itself for disposal with the consent of both sides.

2. The preliminary objection raised by the appellants is that while the show cause notice was made answerable to the Commissioner of Customs, New Custom House, Mumbai, the said notice was adjudicated by the Commissioner, Airport, Mumbai who does not have any jurisdiction in the absence of any specific order of the Central Government transferring the jurisdiction to him. In this connection, they relied upon the Tribunal's decision in the case of Consolidated Enterprises v. CC (G), Mumbai 3. The Id. Departmental Representative Shri B.B. Sarkar reiterates the findings of the adjudicating authority and leaves the matter for decision by the Bench.

4. On considering the submissions made and perusing the cited decision, we find force in the appellants' plea regarding lack of jurisdiction.

Hence, we set aside the impugned order and remand the case to the Commissioner having jurisdiction to adjudicate the notice. The appeal is thus allowed by way of remand.