

Commissioner of Cus. Vs. Impex Clearing and Shipping

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : May-13-2002

Reported in : (2003)(161)ELT483Tri(Mum.)bai

Judge : J Balasundaram

Appellant : Commissioner of Cus.

Respondent : impex Clearing and Shipping

Judgement :

1. Ld. Counsel for the respondents herein raises a preliminary objection to the maintainability of the appeal filed by the Revenue against the order of the Commissioner of Customs, who has dropped proceedings initiated against the Customs House Agents in terms of Regulation 23 of the CHA Licensing Regulations, 1984. It is his contention that the law does not provide for any appeal by the Revenue against such order and the right to file appeal against an order passed either under Regulation 21 or sub-regulation (7) of Regulation 23 lies only with the CHA, as seen from the clear language of Regulation 23 Sub-clause 8.

2. The Id. D.R. contends that any person aggrieved by an order or decision of the Commissioner of Customs or Commissioner (Appeals) can prefer an appeal and the right of appeal is not restricted only to the CHA.3. On hearing both sides and perusing the CHA Licensing Regulations framed under Section 146 of the Customs Act, I agree with the respondents that the right to prefer an appeal to the Tribunal under Section 129A of the Customs Act, 1962 against an order passed

under Regulation 21 or 23 is available only to the CHA. I, therefore, uphold the preliminary objection and hence dismiss the Revenue appeal as not maintainable.

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