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Commissioner of Customs (import) Vs. M.B. Electronics

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-01-2006

Reported in : (2007)(207)ELT225Tri(Mum.)bai

Judge : A Wadhwa, S T S.S.

Appellant : Commissioner of Customs (import)

Respondent : M.B. Electronics

Judgement :

1. After rejecting the stay petition filed by the Revenue, we take up the appeals itself, inasmuch the same have been filed on the basis of authorization given by Commissioner of Customs (Import), against an order passed by Commissioner of Customs (Import). It is seen that the impugned order was passed by Commissioner of Customs (I) on 27-1-05.

Authorization letter has been issued by Commissioner of Customs (Import), which reads as follows : I have gone through the Order-in-Original No. CAO-No.CC(YGP) 01/2005 adj. ACC, dt. 17-1-2005 passed by the Commissioner of Customs (Import), ACC, Sahar, Mumbai.

For the reasons recorded in the grounds of appeal (enclosed herewith), I am of the considered opinion that the Order-in-original cited above is neither legal nor proper. Hence, in exercise of the powers vested in me under Sub-section (4) of Section 129D of the Customs Act, 1962, I hereby authorize Deputy Commissioner

of Customs, Group VB, Air Cargo Complex, Sahar, Andheri (E), Mumbai to file application for stay in the said Order-in-original and also to file an appeal on my behalf before the Appellate Tribunal, Mumbai against the said Order-in-original.

2. As per the provisions of Section 129A of the Customs Act, 1962. The orders passed by Commissioner are to be reviewed by the Board. No jurisdiction vests in the Commissioner to review the order of another Commissioner and to authorize the Deputy Commissioner to file an appeal their against. As such, we are of the view that the authorization letter issued by Commissioner of Customs is without any jurisdiction.

Accordingly, the appeals filed by the Revenue on the basis of the said authorization are not maintainable. The same are accordingly dismissed.

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