(2015) 05 GUJ CK 0040

In the Gujarat High Court

Case No : Tax Appeal No. 36 of 2009

Commissioner of Central Excise Surat-I APPELLANT

Vs

Kavita Silk Mills RESPONDENT

Date of Decision : 06-05-2015

Acts Referred:

Citation : (2015) 05 GUJ CK 0040

Hon'ble Judges : V.M. Sahai, A.C.J;R.P. Dholaria, J

Bench : Division Bench

Advocate : R.J. Oza, for the Appellant

Judgement

V.M. Sahai, Acting C.J—We have heard Mr. R.J. Oza, learned Sr. Advocate, assisted by Ms. Rujuta Oza, learned counsel appearing on behalf of the appellant.

2. Being aggrieved and dissatisfied with the order passed by the Customs Excise & Service Tax Appellate Tribunal, Ahmedabad ["Tribunal" for short], the appellant has preferred the present tax appeal.

3. It appears that pursuant to the show cause notice issued to the respondent, it was adjudicated by the adjudicating authority, who, vide order in original, ordered demand of duty of Rs. 1,20,416/- and imposed penalty of Rs. 30,000/-. Being aggrieved by the said order in original, the respondent preferred an appeal before the Commissioner[Appeals], who, vide order in appeal set aside the demand. Being aggrieved with the same, the revenue preferred an appeal before the Tribunal, who, vide its order rejected the appeal of the revenue. Being aggrieved with the same, the revenue has preferred the present appeal.

4. The total amount involved in this Tax Appeal is below Rs. 10.00 Lakh.

5. A Division Bench of this Court in the case of reported in 2014(33) STR 124 (Guj) held that in view of Circular dated 17.8.2011, tax appeal involving the duty amount below Rs. 10 lakh is not maintainable and this Circular also applies to the pending appeal. Following the aforesaid decision of the Division Bench, we

dismiss this tax appeal as not maintainable since the amount involved in this appeal is below Rs. 10 Lakh.

