(2014) 03 KAR CK 0253

In the Karnataka High Court

Case No : CSTA No. 5/2012

Commissioner of Customs APPELLANT

Vs

M/s. Bharti Airtel Limited RESPONDENT

Date of Decision : 12-03-2014

Acts Referred:
Customs Act, 1962 — Section 114A, 130E

Citation : (2014) 03 KAR CK 0253

Hon'ble Judges : Dilip B. Bhosale, J;B. Manohar, J

Bench : Division Bench

Advocate : Jeevan J. Neeralgi, Advocate for the Appellant; Harish R. and Neethu James, Advocate for the Respondent

Judgement

Dilip B. Bhosale, J.—Heard learned counsel for the parties.

2. The revenue, in the present appeal, has challenged the order passed by the Tribunal confirming the penalty equivalent to duty u/s 114A of the Customs Act, 1962 (for short ''Act''). According to the revenue, the penalty ought to have been imposed equivalent to both i.e., the duty as well as the interest. The very same order, which is impugned in the present appeal, has already been carried by the respondent-assessee to the Supreme Court in Civil Appeal Nos. 5989-5990/2012 wherein they have challenged the levy of duty, interest and penalty. The Supreme Court has admitted the appeal on 07.09.2012. In this view of the matter, in our opinion, the revenue should carry this appeal also to the Supreme Court to be heard with the appeal preferred by the assessee challenging the levy of duty, interest and penalty. When we so expressed, learned counsel appearing for the revenue could not and did not dispute this proposition in view of the order passed by this Court in Commissioner of C. Ex., Bangalore-III Vs. T.D. Power Systems Pvt. Ltd., . In that case also, in a similar situation, the revenue was relegated to file appeal before the Supreme Court.

3. In the circumstances, this appeal is disposed of with liberty to the revenue to prefer an appeal u/s 130E of the Act.

