(2011) 01 CAL CK 0068

In the Calcutta High Court

Case No : Custa No. 16 of 2004 and G.A. No. 2932 of 2004

Commissioner of Customs (Port) APPELLANT

Vs

Emami Ltd. RESPONDENT

Date of Decision : 20-01-2011

Acts Referred:
Customs Act, 1962 — Section 130

Citation : (2011) 265 ELT 184 : (2012) 25 STR 195

Hon'ble Judges : Sambuddha Chakrabarti, J;Bhattacharya, J

Bench : Division Bench

Advocate : N.C. Roychowdhury, with K.K. Maity, for the Appellant;

Final Decision : Dismissed

Judgement

1. The Court : This appeal u/s 130 of the Customs Act, 1962 is at the instance of the Commissioner of Customs (Port), Kolkata and is directed against order dated 17th December, 2003 2004 (167) ELT 523 passed by the Customs, Excise and Service Tax Appellate Tribunal, Eastern Zonal Bench, Kolkata in CDM- 78/2003 along with Cross Objection being Cross Objection No. 45 of 2003, dismissing the appeal of the Revenue.

2. Being dissatisfied, the Commissioner of Customs has come up with the present appeal.

3. After hearing the learned counsel for the parties and after going through the order impugned, we find that the learned Tribunal below has virtually assigned no reason while disposing of the appeal. The reason assigned in support of dismissal of the appeal is quoted below:

4. We have heard Shri T.K. Kar, SDR for the Revenue and Shri S.K. Bagaria, Sr. Advocate and Shri Partha Banerjee, Respondent. We find that the order of the Commissioner (Appeal) is well founded. The grounds of appeal by the Revenue are not relevant.

5. In view of the above we reject the appeal of the Revenue with consequential benefits, if any.

4. After going through the aforesaid reason, we are of the view that the order passed by the Tribunal cannot be sustained and the matter should be remanded back for fresh decision after considering the grounds urged by the Revenue in support of the appeal. We make it clear that we have otherwise not gone into the merit and only because no reason was assigned while disposing of the appeal, such fact compelled us to set aside the order and remand the matter back to the Tribunal.

5. Photostat certified copy of this order be made available to the parties upon compliance of usual formalities.