(2018) 03 DEL CK 0205

In the Delhi High Court

Case No : Custom Act Appeal No. 1 Of 2018

Mega Corporation Ltd APPELLANT

Vs

Commissioner Of Customs (Preventive) New Delhi RESPONDENT

Date of Decision : 12-03-2018

Acts Referred:

Citation : (2018) 03 DEL CK 0205

Hon'ble Judges : Sanjiv Khanna, J;Chander Shekhar, J

Bench : Division Bench

Advocate : L. Badri Narayanan, Karan Sachdev, Raghav Khurana, Amit Bansal, Akhil Kulshrestha

Final Decision : Disposed Off

Judgement

CM No. 8252/2018

This is an application for amendment of the appeal. Amendment application is allowed as the appeal is at the initial stage itself.

Counsel for the appellant also states that they have confined their challenge to the order of the Appellate Tribunal remanding the matter to the adjudicating authority for fresh decision.

Amended appeal is taken on record.

The application is disposed of.

CUSAA No. 1/2018

Counsel for the appellant, on instructions, states that he is not pressing prayer (a) made in the amended appeal or the assertion made in paragraphs 25, 26 and 27 of the amended appeal to the extent that they relate to directions passed by the Appellate Tribunal for status quo.

With the consent of the counsel for the parties, we frame the following substantial question of law and take up the appeal for hearing and disposal:-

"Whether the Customs, Excise and Service Tax Appellate Tribunal was justified and correct in law in passing the order of remand to the original adjudicating authority to first decide the issue or jurisdiction after decision of the Supreme Court in Civil Appeal preferred against the decision of Delhi High Court in Mangali Impex Limited versus Union of India, 2016 (335) ELT 605 (Del.)?"

Counsel for the parties state that the issue/question of remand is covered by decisions of this Court in CUSAA No. 57/2017, Vipul Overseas Private Limited versus Commissioner of Customs and Others, decided on 20th November, 2017 and CUSAA No. 67/2017, Forech India Private Limited versus Commissioner of Customs Inland Container Depot, Tughlakabad, New Delhi, decided on 13th December, 2017.

In view of the joint statement made by the counsel for the parties and for the reasons recorded in the afore-stated decisions, the substantial question of law is answered in favour of the appellant with an order of remand to the Tribunal, without expressing any opinion on merits. While deciding the appeal, the Tribunal will bear in mind and take due notice of the observations made in Vipul Overseas Private Limited (supra) and Forech India Private Limited (supra). The appeal is disposed of, without any order as to costs.