(2014) 01 KAR CK 0010

In the Karnataka High Court

Case No : CSTA No. 52 of 2009

Tata Power Company Ltd. APPELLANT

Vs

Commissioner of Customs, Mangalore RESPONDENT

Date of Decision : 29-01-2014

Acts Referred:

Citation : (2017) 345 ELT 94

Hon'ble Judges : N. Kumar and C.R. Kumaraswamy, JJ.

Bench : Division Bench

Advocate : Shri Sangram S. Kulkarni, Advocate, for the Appellant; Shri Jeevan J. Neeralgi, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

N. Kumar, J.—The substantial question of law which arises for consideration in this appeal is, whether there is no liability to pay customs duty on facilitation charges, demurrage charges, bank charges and survey fees incurred by the assessee while importing furnace oil to its factory premises. Therefore, the question is about the valuation of the goods and the customs duty payable thereon.

2. Whether the value of goods for the purpose of assessment is required to be increased or decreased, is a question that relates directly and proximately to the value of goods for the purpose of assessment. Determination of rate of duty in relation to any goods include determination of a question whether any goods or not, whether there is an import or not the process if any undertaken in the service centre amounts to manufacture or not, whether there is an export or not and if the goods imported or exported during are dutiable goods or not would fall within the meaning of the expression ''determination of the rate of duty of customs or the value of the goods for the purposes of assessment of duty'' used in Section 130 and Section 130E of the Customs Act. The dispute in question does not fall within the jurisdiction of the High Court under Section 130 of the Act. Therefore, the appeal filed is not maintainable and the assessee has to

approach the Apex Court under Section 130E of the Act. Therefore, appeal is dismissed reserving liberty to the assessee to approach the Apex Court.

