
**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

108

**Central Excise Appeal No.32 of 2017 (O&M)
Date of decision: December 18, 2017**

Commissioner of Central Excise, Gurugram-I, Gurugram

....Appellant

versus

M/s Groz Engineering Tools Pvt. Ltd.

....Respondent

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Puneet Pali, Advocate for
Mr. Amit Goyal, Sr. Standing Counsel
for the appellant-CBEC.

AJAY KUMAR MITTAL, J. (Oral)

1. The appellant-Revenue has challenged the order dated 28.10.2016 (**Annexure A-4**) passed by the Customs, Excise & Service Tax Appellate Tribunal, Chandigarh, (for short, 'CESTAT') in Appeal No.E-60095/2016-(SM), whereby the appeal filed by the Revenue was dismissed in view of the instructions dated 17.12.2015 issued by the Central Board of Excise and Customs, Department of Revenue, New Delhi under Section 35R of the Central Excise Act, 1944, (in short, 'the Act') fixing the monetary limits.

2. The Tribunal noticed that the Government in exercise of

powers under Section 35R of the Act vide instructions issued on 17.12.2015, had fixed the monetary limits for filing the appeal before the CESTAT, High Courts and the Supreme Court for reduction of Government litigation. It has been prescribed therein that below the following monetary limits, no appeal shall be filed in the Tribunal, High Court and the Supreme Court:-

'S. No.	Appellate Forum	Monetary Limit
1.	CESTAT	Rs. 10,00,000/-
2.	High Courts	Rs. 15,00,000/-
3.	Supreme Court	Rs. 25,00,000/-'

The Adjudicating Authority vide order dated 31.08.2015 confirmed the demand for recovery of ₹ 6,16,724/- and ordered recovery of the same under Section 142 of the Customs Act, 1962 (in short, 'the 1962 Act'). Besides, penalty of ₹ 1,00,000/- was also imposed under Section 117 of the 1962 Act. The Commissioner (Appeals) vide order dated 18.05.2016 (Annexure A-3) accepted the appeal. However, the Revenue assailed the said order before the Tribunal where the appeal was dismissed in view of Board Circular dated 17.12.2015 as the tax effect involved was below the monetary limit prescribed thereunder. It was not disputed that the total tax effect involved in the appeal is ₹ 6,16,724/- under Section 142 of the 1962 Act and ₹ 1 lac on account of penalty imposed under Section 117 of the 1962 Act, which is below the prescribed monetary limit. Learned counsel for the Revenue in order to justify the filing of the appeal made reference to the following exceptions referred to in Para

No.4 of the instructions dated 17.08.2011, which reads thus:-

“4. Several queries connected with application of monetary limits have been raised by the field formations which were considered by the Board and are being clarified as below:-

Issues	Clarification
<i>1. Whether duty involved mentioned in the Instruction dated 20.10.2010 refers to duty outstanding to be collected or the total duty demanded for deciding the threshold limit prescribed therein.</i>	<i>In a case where a part of the duty demanded is not disputed and is paid and the outstanding duty under dispute is less than the monetary limit prescribed by the Board, no appeal shall be filed. In other words, monetary limit shall apply on the disputed duty and not on the total duty demanded in a case.</i>
<i>1. Whether monetary limits would apply to cases of refund.</i>	<i>It is clarified that the monetary limits being prescribed by the Board would apply to cases of refund as well.</i>
<i>1. Whether applications being filed by the Department before office of Joint Secretary (Revision Application) would also be covered under the stipulation of monetary limits.</i>	<i>The limit specified herein will not be applicable to application filed before the Joint Secretary (Revision Application).</i>
<i>1. Whether exclusion of audit objections mentioned in para 6(c) of Instruction dated 20.10.2010 would cover internal audit objection cases also or whether they would be limited to cases of revenue audit alone.</i>	<i>The intention was to apply the exclusion clause mentioned at Para 6(c) only to disputes arising out of revenue audit objections accepted by the Department. It has now been decided to delete the said exclusion clause (refer para 3 of this Instruction). Therefore, in all cases of audit objections accepted by the Department, while protective demands may continue to be issued but the same would be subjected to the monetary limits for filing appeal in the Tribunal, High Courts and the Supreme Court.</i>

3. Having perused the aforesaid clarification, we find that the present case does not fall under any exception enumerated thereunder and in view of the above, no ground for interference is made out. The appeal stands dismissed.

**(AJAY KUMAR MITTAL)
JUDGE**

**(AMIT RAWAL)
JUDGE**

December 18, 2017
sonia gugnani

Whether speaking/reasoned?	Yes
Whether reportable?	Yes