IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, CHENNAI

Customs Appeal No. 83 of 2011

(Arising out of Order-in-Appeal No. 68/2010 dated 15.12.2010 passed by the Commissioner of Customs & Central Excise (Appeals), Trichy)

M/s. Sri Sai Corporation, **Appellant**
At Post Kogoan, Shree Konda Taluka,
Ahmednagar, Maharashtra - 413728.

Vs.

Commissioner of Customs **Respondent**
Custom House, New Harbour Estate
Tuticorin- 628 004.

APPEARANCE:

Ms. R.S. Swetha, Advocate for the Appellant
Shri N. Mohan, Authorised Representative for the Respondent

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Hon'ble Shri M. Ajit Kumar, Member (Technical)
Hon'ble Shri Ajayan T.V., Member (Judicial)

FINAL ORDER NO. 41158/2026

Date of Hearing: 29.10.2026
Date of Decision: 29.10.2026

Per M. Ajit Kumar,

This appeal came up for hearing as an outcome of the order passed by the Hon'ble High Court in CMA (MD) No. 1724 of 2024 dated 03.01.2025.

2. The Ld. Counsel Ms. Swetha R.S. stated that the matter pertains to the Final Order Nos. 43147 to 43157/2017 dated 18.12.2017 passed by a Coordinate Bench of this Tribunal remanding the appeal filed against Order-in-Appeal No. 68/2010 dated 15.12.2010 in the light of the decision of the Hon'ble High Court of Delhi in the case of **Mangli Impex Vs. Commissioner of Customs** reported in 2016 (335) ELT

605 (Del.). Aggrieved by the order, Revenue had taken it up in appeal before the Hon'ble High Court of Madras.

3. The Hon'ble High Court was pleased to dispose of the appeal by way of remand, in their (M/s. Sri Sai Corporation) case, with the following observations:-

> "Heard the learned Standing Counsel appearing for the appellant.
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> 2. It is not in dispute that the issue raised in this civil miscellaneous appeal is squarely covered by the decision of the Hon'ble Supreme Court reported in **(2024) 24 Centax 117 (S.C.) (Commissioner of Customs Vs. M/s.Canon India Private Limited)**.
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> 3. Respectfully applying the said decision, we set aside the impugned order passed by CESTAT Chennai. The matter is remitted to the file of the CESTAT. Chennai for passing orders on merits and in accordance with law.
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> 4. This Civil Miscellaneous Appeal is allowed on these terms. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed."

4. However, the Ld. Counsel stated that in the case of a co-noticee M/s. Jitendra N Kamdar in CMA (MD) SR No. 44151 of 2018 vide order dated 10.2.2025, the Hon'ble High Court decided as follows:-

> "2. When the matter is taken up for hearing for consideration by this Court today, it is brought to the notice of this Court by the learned standing counsel representing the Customs Department that the Hon'ble Supreme Court has disposed of **Mangli Impex** case holding the officials of DRI are competent to issue show cause notice under the Customs Act, 1962, and also permitted the Department to adjudicate the issue on merits. Therefore, the learned standing counsel appearing for the Customs Department informs this Court that he has been instructed by the Department to withdraw the appeal with liberty to proceed with adjudication on merits as directed by the Hon'ble Supreme Court in Review Application petition No.400/21 filed by the **Commissioner of Customs vs. Canon India Private Limited (Mangli Impex Case)**. The communication from the Department dated 29.01.2025 is also placed before this Court for consideration.

> 3. **In view of the above facts, the Customs Department is permitted to withdraw the appeal and proceed with the adjudication as per the Orders of the Hon'ble Supreme Court in Review Application petition No.400/21 filed by the Commissioner of Customs vs. Canon India Private Limited (Mangli Impex Case).** Accordingly, this civil miscellaneous petition is dismissed as withdrawn. Consequently, connected civil miscellaneous appeal is also dismissed as withdrawn at SR stage itself. No costs."
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> (emphasis added)

5. The Ld. Counsel stated that Revenue having withdrawn the appeal pertaining to Jitendra N Kamdar so as to proceed with the adjudication, this matter may also be remitted to the Original Authority so that the matter could be heard and disposed of together.

6. To a specific query from the Bench the Ld. Counsel stated that she is not aware of the present situation relating to other three co-noticees.

7. The Ld. AR has no objection to the remand. He too was unable to enlighten us about the present position relating to the remaining three co-noticees.

Discussion

8. We have considered the submissions and examined the facts of the case. We find that the impugned Order has been set aside by the Hon'ble High Court in the case of the Appellants. We further note that, in the case of a co-noticee, namely, M/s. Jitendra N. Kamdar, the Department has withdrawn its appeal before the Hon'ble High Court with a view to proceeding with the adjudication, and accordingly the Hon'ble High Court has dismissed the said appeal as withdrawn. In view of the aforesaid developments, we are of the considered view that it would not be appropriate to examine the issues involved in the

present appeal independently at this stage. Accordingly, in the interest of justice and for the sake of consistency in the proceedings concerning the co-noticees, we deem it appropriate to remand the matter to the Ld. Adjudicating Authority for fresh consideration. The Registry shall verify and place before the regular Bench appeals, if any, pending before this Tribunal by the co-noticees, for disposal suitably.

9. Accordingly, we remand the matter to the Ld. Original Authority for fresh adjudication on merits and in accordance with law, leaving all issues open for consideration. The Ld. Adjudicating Authority shall also ascertain the outcome of the Department's appeals pertaining to the other three co-noticees and take the same into consideration, as may be warranted, while adjudicating the matter afresh. The appeal is, accordingly, allowed by way of remand in the above terms. The appeal stands disposed of accordingly.

(Order dictated and pronounced in open court)

(**AJAYAN T.V.**)
Member (Judicial)

(**M. AJIT KUMAR**)
Member (Technical)

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