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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\# **CNR No. DLHC010996382025**

\+ CUSAA 176/2025 & CM APPL. 78071/2025

COMMISSIONER OF CUSTOMS EXPORTS .....Appellant

Through: Mr. Piyush Bansal, Ms. Ruchita Shrivastava, Advs.

versus

MS K G EXPORTS .....Respondent

Through: Mr. Ajay Aggarwal, Mr. Naveen Bindal, Mr. Madhur Aggarwal and Mr. Abhishek Dagar, Advs.

\# **CNR No. DLHC011071272025**

\+ CUSAA 182/2025 & CM APPL. 82096/2025

COMMISSIONER OF CUSTOMS EXPORTS .....Appellant

Through: Mr. Piyush Bansal, Ms. Ruchita Shrivastava, Advs.

versus

MANISH DUA .....Respondents

Through: Mr. Ajay Aggarwal, Mr. Naveen Bindal, Mr. Madhur Aggarwal and Mr. Abhishek Dagar, Advs.

CORAM:
HON'BLE MR. JUSTICE AVNEESH JHINGAN
HON'BLE MS. JUSTICE SHAIL JAIN

O R D E R

% 28.10.2026

1. These appeals are filed under Section 130 of the Customs Act, 1962 (for short 'the Act') against the final order no.FO/C/A/50827-50828/2025-CU(DB) dated 04.06.2025 passed by the learned Customs, Excise & Service Tax Appellate Tribunal (for short 'CESTAT').

2. The preliminary objection raised by learned counsel for the respondent is that in view of the instructions issued by the Central Board of

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Indirect Taxes and Customs (CBIC) dated 02.11.2023 (hereinafter 'the instructions'), the appeal is not maintainable as the amount involved is less than the prescribed monetary threshold in the instructions. The submission is that the case does not fall within any of the exceptions carved out in the instructions.

3. Learned counsel for the appellant submits that the issue is of recurring nature. It is further contended that the judgment of this Court in ***Amit Exports v. Union of India & Ors. 2024:DHC:9009-DB*** has been followed in plethora of cases by the CESTAT but is currently pending before the Supreme Court. The issue of interpretation of Section 108 of the Act is involved to the effect as to whether the statement is to be recorded before the adjudicating authority or not and this issue arises in several matters.

4. It is not the case set up by the appellant that the amount involved in the appeal exceeds the prescribed monetary limit of rupees one crore.

5. The instructions dated 02.11.2023 are reproduced below:

390/Misc/30/2023-JC

I/76394/2023

F. No. 390/Misc/30/2023-JC
Ministry of Finance, Department of Revenue
Central Board of Indirect Taxes & Customs
(Judicial Cell)
*****

'B' Wing, 4th Floor, HUDCO VISHALA Building
Bhikaji Cama Place, R. K. Puram, New Delhi-66
Date- 02.11.2023

INSTRUCTION

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Subject: Reduction of Government litigation - providing monetary limits for filing appeals by the Department before CESTAT, High Courts and Supreme Court – regarding

In exercise of the powers conferred by Section 131BA of the Customs Act, 1962 and in partial modification of earlier instruction issued from F. No. 390/Misc./163/2010-JC dated 17.08.2011, the Central Board of Indirect Taxes & Customs (hereinafter referred to as the Board) fixes the following monetary limits below which appeal shall not be filed inthe CESTAT, High Court and the Supreme Court:

S. No.	Appellate Forum	Monetary limit
1	SUPREME COURT	Rs. 2 Crore
2	HIGH COURTS	Rs. 1 Crore
3	CESTAT	Rs. 50 Lakh

2. Adverse judgments relating to the following should be contested irrespective of the amount involved:

a) Where the constitutional validity of the provisions of an Act or Rule is under challenge;

b) Where Notification/ Instruction/ Order or Circular has been held illegal or ultra vires;

c) Classification and refund issues which are of legal and/ or recurring nature.

3. Withdrawal process in respect of pending cases in above forums, as per the above revised limits, will follow the current practice that is being followed for the withdrawal of cases from the Supreme Court, High Courts, and CESTAT.

Signed by Bhagwat Prasad Sharma
Date: 02-11-2023 17:41:45
Reason: Approved

(Bhagwat Sharma)
Deputy Secretary, Review
Email: sojc-cbec@nic.in

5. The three exceptions carved out in the instructions are:

i. Challenge to the constitutional validity of the provisions of an Act or rule.

ii. Challenge to the notification/ instructions/ order or circular held to be illegal or ultra *vires*

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iii. The issue of classification and refund of legal and/or recurring nature.

6. It is neither argued nor pleaded that the issue involved in the appeal is that of classification. It is not the one sole case where the department despite the binding instructions issued with an object to reduce government litigation continues to file appeals in utter defiance.

7. On 17.03.2026, learned counsel for the appellant sought time to have instructions regarding the maintainability of the appeal in view of the instructions issued fixing the monetary limits.

8. The Chief Commissioner of Customs, Delhi is directed to remain physically present before this Court on the next date of hearing to assist on the procedure being adopted to ensure uniform implementation of the instructions rather than leaving it at the discretion of the individual Commissionerates.

9. Put up on 20.11.2026 at 10:30 a.m. in the Supplementary List.

AVNEESH JHINGAN, J

SHAIL JAIN, J

OCTOBER 28, 2026*/kp/ 'JK'*

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