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

Date of Decision: 20th March, 2025

+ **CUSAA 48/2025 & CM APPL. 11174/2025**

M/S GOURISHANKAR POLYMER INDUSTRIESAppellant

Through: Mr. Prashant Srivastava, Advocate.

versus

COMMISSIONER OF CUSTOMSRespondent

Through: Mr. Aakarsh Srivastava, Standing Counsel.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

PrathibaM. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present appeal has been filed by the Appellant under Section 130 of the Customs Act, 1962 seeking to set aside the order dated 8th November 2024 passed by the Customs, Excise and Service Tax Appellate Tribunal (hereinafter, 'CESTAT'), Principal Bench at New Delhi.
3. It is submitted by Mr. Aakarsh Srivastava, Id. Standing Counsel for the Respondent that though the monetary limit is below Rs.50,00,000/-, the classification of the product would be a recurring and a legal issue and hence in terms of exception in Clause 2(c) of the 'Instruction' dated 2nd November 2011, the issue deserves to be considered. The said clause in the Instruction reads as under :



“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.”

4. Ld. Counsel for the Petitioner relies upon the order dated 14th November 2024 in *Customs Appeal No. 41243/ 2015* passed by CESTAT, Chennai wherein the same product was involved *i.e.*, PVC Resin Grade SP 660 (Suspension Grade) and the CESTAT, Chennai had refused to entertain the matter and had disposed it on the ground of monetary value. The relevant portion of the said order reads as under:

“Order dictated in court. Revenue appeals are dismissed on the ground of monetary limits as per Litigation Policy.”

5. Considering the fact that the same product is involved even in the order passed by CESTAT, Chennai and the classification of this product for the period prior to 2017 has not been settled, this Court deems it appropriate to remand the matter to CESTAT, Principal Bench, New Delhi for a fresh adjudication on the classification issue itself and not to dispose of the matter on merely the monetary limit.

6. Considering that this is an old matter, CESTAT, Principal Bench, New Delhi shall dispose the said matter within three months.



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7. Petition is disposed of. All the pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

**RAJNEESH KUMAR GUPTA
JUDGE**

MARCH 20, 2025/da/ck