

Confiscation — Goods not available — Bond entered by 100% EOU at time of import

The Gujarat High Court Bench comprising Hon'ble Mr. Justice V.M. Sahai and Hon'ble Mr. Justice N.V. Anjaria on 30-7-2012 **admitted** the Tax Appeal No. 2577 of 2010 filed by Commissioner of Central Excise & Customs, Surat-II against the CESTAT Final Order No. A/631/2010-WZB/AHD, dated 8-6-2010 as reported in **2010 (257) E.L.T. 447 (Tri.-Ahmd.)** (*Commissioner v. Premier Polyspin Pvt. Ltd.*). While admitting the appeal, the High Court passed the following oral order :

"1. We have heard Mr. R.J. Oza, learned Senior Counsel assisted by Ms. Rujuta Oza, appearing for the appellant and Mr. Paresh M. Dave, learned counsel appearing for the respondent.

2. Admit. We formulate the following substantial questions of law.

1. Whether in the facts and circumstances of the case, the Tribunal has committed substantial error of law in holding that in absence of seizure of goods redemption fine cannot be imposed even if the goods were provisionally released?
2. Whether in the facts and circumstances of the case, the Tribunal has committed substantial error of law in holding that the bond entered into by the 100% export oriented unit at the time of import of goods, cannot be equated to a bond for provisional release of seized goods?
3. Whether in the facts and circumstances of the case, the Tribunal has committed substantial error of law in dismissing appeal of revenue and confirming order passed by the Commissioner (Appeals), Central Excise and Customs, Surat-I?

3. Issue notice to the respondent. Paper book be filed within three months."

The Appellate Tribunal in its impugned order had held that bond entered by 100% EOU at time of import cannot to be equated to bond for provisional release of seized goods in which case redemption fine imposable even if goods were provisionally released. As there was no seizure in instant case, therefore confiscation could not be ordered.

[Commissioner v. Premier Polyspin Pvt. Ltd. - 2013 (294) E.L.T. A17 (Guj.)]