Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad

REGIONAL BENCH- COURT NO.3

Customs Appeal No.44 of 2009

(Arising out of OIO-KDL/COMMR/51/2008 passed by Commissioner of CUSTOMS-KANDLA)

M/s. Sanghi Industries Ltd ....**Appellant**
Sanghipuram, Po-Motiber, Taluka-Adbasa,
Kutch, Gujarat

VERSUS

C.C.-Kandla ....**Respondent**
Custom House, Near Balaji Temple,
Kandala, Gujarat

APPEARANCE:
Sh. Anand Nainawati, Advocate for the Appellant
Sh. L. Patra, Authorised representative for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
HON'BLE MEMBER (TECHNICAL), MR. RAJU

Final Order No. A/ 11637 /2019

DATE OF HEARING: 21.08.2019
DATE OF DECISION:21.08.2019

RAMESH NAIR

The appellant has imported second hand DG-SETS which was confiscated and the redemption fine and penalty was imposed, for the reason that for import of second machine license is required.

2. She. Aanad Nainawati, Ld. Counsel appearing on behalf of the appellant at the outset submits that, subsequent to clearance of the goods the appellant got this product included in the license, however, this fact was not brought to the adjudicating authority, therefore, he requested for remand of the matter so that the amended license can be produced before original authority.

3. Sh. L. Patra, Ld. Assistant commissioner (AR) appearing on behalf of the Revenue reiterates the finding of the impugned order. He submits that at the time of the adjudication, amended license was not submitted, therefore, the same cannot be considered at this stage.

4. We have carefully considered the submission made by both the sides and perused the records. We find that the entire case was made out only for

the reason that the appellant did not obtain the license for imported of second hand DG-SETS, consequently, they have got this imported goods included in the license which was neither produced by the appellant to the adjudicating authority nor it was considered, therefore, in the interest of justice we are of the view that the matter can be re-considered in the light of this amended license. Accordingly, the impugned order is set aside and the appeal is allowed by way of remand to the adjudicating authority for passing afresh order, after considering the submission of the amended license by the appellant to the adjudicating authority.

(Dictated & Pronounced in the open court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(RAJU)
MEMBER (TECHNICAL)

Prachi