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

REGIONAL BENCH- COURT NO. 1

Customs Appeal No. 13570 of 2013-DB

(Arising out of OIA-310/2013/CUS/COMMR-A-/AHDDated-18/07/2013 passed by Commissioner of CUSTOMS-AHMEDABAD)

C.C.-Ahmedabad **........Appellant**
Custom House, Near All India Radio Navrangpura,
Ahmedabad, Gujarat

VERSUS

Idmc Ltd **........Respondent**
C-1/11-12, Gidc Estate, Vithal Udyognagar,
Near Anand, Anand, Gujarat

APPEARANCE:
Shri. Anand Kumar, Superintendent (AR) for the Appellant
Shri. Manish Jain, Ms. Shruti Khanna, Advocates for the Respondent

CORAM: HON'BLE MR. RAJU, MEMBER (TECHNICAL)
HON'BLE MR. SOMESH ARORA MEMBER (JUDICIAL)

Final Order No. A/ 11041 /2023

DATE OF HEARING: 24.04.2023
DATE OF DECISION:24.04.2023

Raju

This appeal has been filed by the revenue against order of Commissioner (Appeals) allowing the benefit of Notification No. 06/2006-CE dated 01.03.2006 to homogenizers imported by the respondent.

2. Learned AR pointed out that the homogenizers have been imported by the appellants from two supplier namely FBF Italy SRL. They have recovered some data from the website of the said manufacturer to assert that the homogenizers' manufactured by them are having multiple use. It has been argued in the review order that homogenizers having multiple use cannot be classified under Customs Tariff Heading No. 84342000. Reliance has been placed on HSN notes to Chapter Heading No 84342000.

3. Learned counsel appearing for the respondent pointed out that the appeal by the revenue is only on availability of benefit of Notification No. 06/2006-CE dated 01.03.2006. He pointed out that the Commissioner (Appeals) in his order has granted relief on account of limitation also. He further pointed out that the Commissioner (Appeals) has stated the demand is beyond the statutory limit of 5 years also. He pointed out that no appeal has been made on this ground. On the ground of limitation, demand being made after 5 years of the relevant date. He pointed out that the above two issues have not been challenged and therefore the appeal of revenue should be dismissed.

4. We have considered the rival submissions. We find that impugned order grants benefit to the appellant not only a merit but also on limitation. It is notice that the department has filed appeal only on the grounds of merits and no appeal has been filed on the ground of limitation. In these circumstances, we are constrained to dismiss the appeal filed by the revenue. Appeal is dismissed.

(Dictated and pronounced in the open court)

(RAJU)
MEMBER (TECHNICAL)

(SOMESH ARORA)
MEMBER (JUDICIAL)

PRACHI