

Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad
REGIONAL BENCH- COURT NO. 1

CUSTOMS Appeal No. 10355 of 2017-DB

(Arising out of OIA-MUN-CUSTM-000-APP-377-379-16-17 dated 17.11.2016 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD)

SONAM CLOCK PVT LTD

TIME TOWER, 2 - LATI PLOT,
MORBI-GUJARAT.

.....Appellant

VERSUS

COMMISSIONER OF CUSTOMS - MUNDRA

OFFICE OF THE PRINCIPAL COMMISSIONERATE OF CUSTOMS,
PORT USER BULD., CUSTOM HOUSE MUNDRA,
KUTCH, GUJARAT-370421

.....Respondent

APPEARANCE:

Shri P.D. Rachchh, Advocate appeared for the Appellant
Shri Anand Kumar, Superintendent (Authorized Representative) for the Respondent

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

Final Order No. A/ 11440 /2023

DATE OF HEARING:03.07.2023

DATE OF DECISION:03.07.2023

RAJU

This appeal has been filed by Sonam Clock Private Limited against order of Commissioner (Appeals) dismissing their appeal on the ground of limitation.

2. Learned counsel submitted that they have filed three bills of entries for self assessment. The Assessing Officer sought to charge the Anti Dumping Duty on the said Bills of entries and the Bills and Entries were reassessed by the Assessing Officer, however no order under Section 17(5) was issued by the Assessing Officer. The appellant challenged the said bill of entry before the Commissioner (Appeals) who after condoning delay in case of two bills of entries, remanded the matter back to original adjudicating authority for passing order under Section 17(5) of the Customs Act, 1962.

2.1 In the third Bill of Entry which is the subject matter of the present dispute, the condonation of delay was disallowed. The Commissioner (Appeals) has taken the date of bill of entry as the relevant date for the

purpose of counting the limitation. Learned Counsel pointed out that the said date cannot be taken as relevant date for limitation as the bill of entry was reassessed by the Assessing Officer by charging Anti Dumping Duty and for that the relevant challan was issued on 19.10.2015 and the same was received by them on 20.10.2015. In these circumstances, he sought benefit of limitation.

3. Learned Authorized Representative relies on the impugned order.

4. We have considered the rival submissions. We find that in the instant case, while the bill of entry was filed on 17.10.2015, the same did not contain the Anti Dumping Duty and therefore, the Assessing Officer had directed the appellant to pay the Anti Dumping duty and for this purpose no order under Section 17(5) was issued. We find that in the instant case, the relevant date should be taken as date of reassessment which is the date of issue of challan for payment of Anti Dumping duty. Counting the days from the date of receipt of challan which is 20.10.2015, the delay comes within the condonable limit of 30 days. We find that in the impugned order, in the identical circumstances, already delay of 23 days and 20 days have been condoned by the Commissioner (Appeals), therefore, we hold that the delay was condonable delay. The delay, is therefore, condoned. The matter is remanded to the original adjudicating authority on identical terms as for the other bills of entries listed in the impugned order in appeal. The appeal is allowed by way of remand.

(Dictated and Pronounced in the open court)

(RAJU)
MEMBER (TECHNICAL)

(SOMESH ARORA)
MEMBER (JUDICIAL)