CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT AHMEDABAD

REGIONAL BENCH – COURT NO. 01

CUSTOM Appeal No. 11895 of 2018

[Arising Out Of OIO-AHM-CUSTM-000-COM-001-18-19 Dated-10/04/2018 Passed By Principle Commissioner Customs, Excise and Service Tax-AHMEDABAD]

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

VERSUS

M/s Western Silks **.....Respondent**
A-2, 3908, Phase Iv, Gidc, Vatva,
Ahmedabad, Gujarat

APPEARANCE:
Shri. Tara Prakash, Deputy Commissioner (AR) for the Appellant
None appeared for the Respondent

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

FINAL ORDER NO.A / 10172 /2024

DATE OF HEARING:17.01.2024
DATE OF DECISION:17.01.2024

SOMESH ARORA

Appellant is an EOU which imported 29 consignments of mulberry silk at 'Nil' rate of duty by availing the Exemption benefit, under Notification No. 53/97-Cus dated 03.06.1997 for the manufacture of processed skill yarn ('processed silk). However the department issued a show cause notice on the basis there was a misuse of 100% EOU scheme and raw silk was diverted to the local market without using the same for production of export goods. The period of dispute involved is March 2002 to September, 2002. From the record, it is seen the matter has come up a number of times and none has appeared on the five occasions on which matter was listed. The appeal by the department is mainly on the ground that confiscation should have been done of the goods which were cleared and thus not available and also the redemption fine and penalty should have been imposed and not doing the same by the Commissioner in Order-In-Original (which is the impugned order) has made then aggrieved.

2. The Learned AR seeks to rely on the decision of Hon'ble High Court of Gujarat as reported in 2017 (349) ELT 451 (Guj.) in the matter of Commissioner of Customs Vs. KAY BEE TAX SPIN LTD., in which under similar circumstances in relation to goods sold by the 100% EOU, confiscation was directed to be done and matter was remanded for imposition of redemption fine.

3. In view of confiscation having been ordered by the Hon'ble High court of Gujarat by relying on various decisions of other High Courts. We respectfully following the decision in the above stated matter are also inclined to remit the matter back to the original adjudicating authority to consider confiscation and imposition of redemption fine. The matter is accordingly remanded.

4. Appeal is allowed by way of remand.

(Dictated and pronounced in the open Court)

(RAJU)
MEMBER (TECHNICAL)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Prachi