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

REGIONAL BENCH- COURT NO. 1

CUSTOMS Appeal No. 10431 of 2020-DB
(Arising out of OIA-JMN-CUSTM-000-APP-245-19-20 Dated-04.02.2020 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD)

MODEST INFRASTRUCTURE PRIVATE LIMITED ....Appellant
RAMSAR YARD, FERRY ROAD, NR/ LAKADIYA POOL, OLD PORT
BHAVNAGAR-BHAVNAGAR-GUJARAT

VERSUS

C.C.JAMNAGAR (PREV) ....Respondent
SHARDA HOUSE...BEDI BANDAR ROAD,
OPP. PANCHAVATI, JAMNAGAR-GUJARAT

WITH

1) **CUSTOMS Appeal No. 10432/2020 (MODEST INFRASTRUCTURE PRIVATE LIMITED);**
2) **CUSTOMS Appeal No. 10433/2020 (MODEST INFRASTRUCTURE PRIVATE LIMITED)**
3) **CUSTOMS Appeal No. 10434/2020 (MODEST INFRASTRUCTURE PRIVATE LIMITED);**
4) **CUSTOMS Appeal No. 10435/2020 (MODEST INFRASTRUCTURE PRIVATE LIMITED);**
5) **CUSTOMS Appeal No. 10436/2020 (MODEST INFRASTRUCTURE PRIVATE LIMITED);**
6) **CUSTOMS Appeal No. 10437/2020 (MODEST INFRASTRUCTURE PRIVATE LIMITED);**
7) **CUSTOMS Appeal No. 10438/2020 (MODEST INFRASTRUCTURE PRIVATE LIMITED);**
8) **CUSTOMS Appeal No. 10439/2020 (MODEST INFRASTRUCTURE PRIVATE LIMITED);**

(Arising out of OIA-JMN-CUSTM-000-APP-245-19-20 Dated-04.02.2020 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD)

APPEARANCE:
Smt. Puloma D. Dalal, C.A. appeared for the Appellant
Shri Girish Nair (Authorized Representative) for the Respondent

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

Final Order No. 10603-10611 /2024

DATE OF HEARING:29.02.2024
DATE OF DECISION:29.02.2024

SOMESH ARORA

In the instant case the dispute relates to interest demanded by the department on delayed issuance of certain raw materials for manufacture of ship which was eventually cleared as per the procedure.

2. Learned advocate appearing for the party states that there is no demand of duty and therefore, interest cannot be demanded.

3. Learned Authorized Representative opposes that there was a delay in issuing the material for the ship building and the same went beyond the stipulated period of time frame. We find that the stipulated period in this case is 90 days, however there was some delay in issuance of material and the utilization of the same for the purpose of notification is not disputed. Department is seeking interest on the ground that there is a delay in issuance of the material beyond the stipulated period in the warehouse and therefore the interest becomes chargeable.

4. While agreeing with the department on this proposition, we find that there was a request made as per the procedure by the appellant party to the Chief Commissioner of Central Excise vide their letter dated 13.02.2012 in which they had requested for extension of period which request was as per the liberalized interpretation provided by the CBIC under Circular No. 10/2006 dated 14.02.2006. The Learned advocate pleads that despite request having been made as per the Board Circular and as per the procedure, and Board Circular emphasizing liberal interpretation in case of ships for manufacturing, the request was not considered and interest was charged. From the record, we find that the position stated by the learned advocate is correct. However the learned authorized representative points out that it does not appear that the request was made to the proper customs authority which had to deal with the imported material but was made to the Chief Commissioner of Central Excise. Be it so, we still find that whenever the request was made, the same had to be considered even by relegating to the proper administrative authority. We also find as indicated by the learned

advocate that this matter was brought before the lower authorities but no finding to that effect was given. Under the circumstances a mandate is available to the executive authorities to consider request. We direct that the matter be considered afresh. Especially the letter seeking extension, in view of liberalized provisions having been made in this regard by the CBIC. Matter is therefore, remanded to original authority which in case it deems fit can approach the administrative authority for allowing grant of extension as was sought from the Chief Commissioner of Central Excise. The concerned authority will consider the same sympathetically. Ordered accordingly. Appeal is allowed in above terms.

(Order dictated and pronounced in the open court)

(RAJU)
MEMBER (TECHNICAL)

(SOMESH ARORA)
MEMBER (JUDICIAL)

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