CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL AHMEDABAD

REGIONAL BENCH, COURT NO. 1

CUSTOMS APPEAL NO. 10422 OF 2023

[Arising out of OIO-VIII/48-44/ICD/Exp/Misc/2022/1196 dated 19.04.2023 passed by Commissioner of CUSTOMS-AHMEDABAD]

GLOBAL COPPER PRIVATE LIMITED .....**Appellant**
Honest House-118, Meghdoot Apartment,
Pratapnagar, Vadodara,
Gujarat-390004

Vs.

COMMISSIONER OF CUSTOMS-CUSTOMS AHMEDABAD .....**Respondent**
1st Floor, Custom House, Opp. Old High Court,
Navrangpura, Ahmedabad,
Gujarat-380009

Appearance:
Present for the Appellant : Shri Vivek Bapat, Advocate
Present for the Respondent: Shri Sanjay Kumar, Superintendent (AR)

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

Date of Hearing : 20.03.2024
Date of Decision : 20.03.2024

FINAL ORDER NO. 10718/2024

RAJU

This appeal has been filed by Global Copper Private Limited against denial of their request for conversion of shipping bills from DFIA scheme to Drawback scheme.

2. Learned Counsel for the appellant pointed out that they had exported the goods from May, 2017 to March, 2020. They applied for conversion of the said export shipping bills from DFIA/advance authorization scheme to Drawback scheme vide their letter dated 3rd May, 2022. He pointed out that the request has been rejected solely of the grounds of delay.

2.1 He argued that Hon'ble High Court of Gujarat in case of Mahalaxmi Rubtech Ltd. Vs. UOI – 2021 (3) TMI 240 Gujarat High Court has struck down the limitation prescribed in para 3(a) of the circular issued by the CBEC, prescribing a time limit of three months for such conversions. He also relied on the decision of Tribunal in the case of Kwality Paper Products Vs. C.C. Mundra – 2023(7) TMI 890 CESTAT Ahmedabad, Nissan Exports Vs. C.C. Mundra – 2023 (10) TMI 437 CESTAT Ahmedabad, Eastman International Vs. C.C. Mundra – 2024 (2) TMI 313 CESTAT Ahmedabad.

2.2 He pointed out that, during the said period the pandemic had affected the operations and consequently there was some extra delay. He sought exclusion of said time in calculating the time limits, if any.

3. Ld. AR relied in the impugned order.

4. We have considered rival submissions. We find earlier the case of Kwality Paper Products, a practically similar case was examined wherein the following was observed.

> *"5. We find ourselves in agreement that in the absence of any period having been prescribed in the statute especially for Section 149, the reading of general period of limitation under Article 137 of the Limitation Act, 1963 of three years appears proper. We accordingly, hold that when the period has not been specifically provided in the statute, period upto three years can be construed as a reasonable period and all concerned can act accordingly. We also like to point out that under general law of limitation the courts are allowed to condone the period of three years as mentioned in the Limitation Act, as per the specific circumstances on case to case basis. Accordingly, we are incline to allow the appeal to the extent that amendment under section 149 will be duly considered by proper officer. Appeal allowed in above terms. Appeal disposed of."*

5. The Tribunal, in the said case held that the limit of three months cannot be applied but the general law of limitation would be applicable.

6. In view of above, we hold that the matter needs to be reconsidered by the lower authorities after considering the benefit of General Law of Limitation read with COVID guidelines if any, applicable to the said case.

7. The appeal is allowed by way of remand.

(Dictated and pronounced in the open Court)

(RAJU)
MEMBER (TECHNICAL)

(SOMESH ARORA)
MEMBER (JUDICIAL)

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