

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

REGIONAL BENCH – COURT NO. 02

CUSTOMS Appeal No. 172 of 2011-SM

[Arising Out Of OIA-66/2011/CUS/COMMR-A-/AHD Dated- 23/02/2011 Passed By
Commissioner of CUSTOMS-AHMEDABAD)

Messrs Rupal Industries

Plot No. 77, Govt Industrial Estate,
Masat, Silvassa, U T Of Dadra & Nagar Haveli

.....Appellant

VERSUS

C.C.-Ahmedabad

Custom House, Near All India Radio Navrangpura,
Ahmedabad, Gujarat

.....Respondent

APPEARANCE:

Shri. S. Bissa, Advocate for the Appellant
Shri. Anand Kumar, Superintendent (AR) for the Appellant

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

FINAL ORDER NO. 12796 /2024

DATE OF HEARING: 20.11.2024
DATE OF DECISION: 20.11.2024

Learned advocate submits that in this matter a penalty of Rs. 35,000/- and RF Rs. 70,000/- has been imposed vide impugned order and also the matter was remanded on the aspect of valuation. He states that he is not contesting further the matter of valuation and undertakes not to do it. However, he argues that without even the valuation having been ascertained, the Commissioner could not have imposed a definite redemption fine. Accordingly, he also points out that both the lower authorities have given their concurrent findings, while the Commissioner (Appeals) agreed with the findings of the lower authority to the effect that there was no deliberate intent while importing and their past conduct does not indicate any wrongful conduct, it still imposed penalty. He was of the

view that though wrong Section has been quoted for the purposes of levying penalty but at this stage, he is not pressing for the same but he pleads for further moderation of RF and PP under the factual circumstances of the matter.

2. Learned AR on the other hand points out that there is already a liberal view taken on consideration of the past conduct of the party.

3. The learned Advocate further states that he will not contest further if RF is reduced Rs. 30,000/- and penalty is reduced 15,000/-. Learned A.R has no serious objection to this. This Court has considered the circumstances under which RF came to be imposed which though is slightly improper as per law is validated by the consent of the learned advocate. There is scope for moderation of RF and penalty, therefore, the same is reduced to Rs. 35,000/- RF and 15,000/- penalty.

4. Appeal partly allowed.

(Dictated and pronounced in the open Court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Prachi