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

REGIONAL BENCH – COURT NO. 03

CUSTOM Appeal No. 12953 of 2019

[Arising out of OIA-JMN-CUSTM-000-APP-100-18-19 dated 11/09/2019 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-AHMEDABAD]

SAUMIL IMPEX PVT LTD **.....Appellant**
Plot No. 68, Ship Breaking Yard, Alan
Bhavnagar,
Gujarat

VERSUS

C.C.-JAMNAGAR(PREV) **.....Respondent**
Sharda House...Bedi Bandar Road,
Opp. Panchavati,
Jamnagar,
Gujarat

APPEARANCE:
Shri Rahul Gajera, Advocate for the Appellant
Shri. Rajesh K Agarwal, Superintendent (Authorized Representative) for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR

FINAL ORDER NO.A / 11853 /2022

DATE OF HEARING:24.11.2022
DATE OF DECISION: 01.12.2022

RAMESH NAIR

The issue involved in the present case is that whether the appellant is entitled for refund under Notification No. 102/2007-Cus dated 14.09.2007 in respect of special additional duty of custom. The lower authority has denied the refund on the ground that the co-relation between the imported goods and the goods sold by the appellant has not been established, for the reason that the bill of entry number was hand written on the invoice.

2. Shri Rahul Gajera, Learned Counsel appearing on behalf of the appellant submits that now the appellant through their Director Shri Darshit parikh submitted an affidavit along with various documents such as sale invoices correspondence with Gujarat Pollution Control Board, Gujarat Martime Board,

Chartered Accountant certificate to show that the co relation is clearly established between the imported goods and goods sold. He submits that merely because the bill of entry number is hand written in the sale invoice, the same cannot be the reason for rejecting the refund claim.

3. Shri R.K Agarwal, Learned Superintendent (Authorized Representative) appearing on behalf of the revenue reiterates the finding of the impugned order.

4. I have carefully considered the submission the made by both the sides and perused the records. I find that the Learned Commissioner (Appeals) has reversed the order of the Adjudicating Authorities in Department’s appeal only on the ground that since the bill of entry number was mentioned in hand written on the invoices, the co-relation is not established. I find that the appellant have given documents such as correspondence with Gujarat Pollution Control Board, Gujarat Martime Board, Chartered Accountant certificate and now the appellant have also submitted an affidavit showing all the co-relation. Therefore merely because the bill of entry number was hand written in the invoice, refund on that ground cannot be rejected, Therefore, I am of the view that matter needs to be re-considered.

5. Accordingly, the impugned order is set aside, matter is remanded to the Adjudicating Authority to reconsider the case a fresh in the light of the various documents referred and submitted by the appellant before this Tribunal. Appeal is allowed by way of remand to the adjudicating authority.

(Pronounced in the open Court on 01.12.2022)

RAMESH NAIR
MEMBER (JUDICIAL)

Palak