IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

C/70130/2017-CU[SM]

(Arising out of Order-in-Appeal No.NOI-CUSTM-000-APP-0454-16-17 dated 24.10.2016 passed by Commissioner of Customs(Appeals), Meerut-II at NOIDA).

M/s. Coromondel Agrico Private Limited

…APPELLANT(S)

VERSUS

Commissioner of Customs, Noida

RESPONDENT (S)

APPEARANCE

Ms.Sonia gupta (Advocate) & Shri Ashok Dhingra (Advocate) for the Appellant (s)
Shri Mohd.Altaf (Asstt. Commr.)(A.R.) for the Revenue

CORAM:

SHRI ANIL G. SHAKKARWAR, MEMBER(TECHNICAL)

DATE OF HEARING/DATE OF DECISION : 23.02.2018

FINAL ORDER NO.70786/2018

Per Shri Anil G.Shakkarwar :

The present appeal is arising out of the Order-in-Appeal No.NOI-CUSTM-000-APP-0454-16-17 dated 24.10.2016 passed by Commissioner of Customs(Appeals), Meerut-II at Noida.

2. Brief facts of the case are that the appellant imported two consignments of Thiophanate Methyl Technical classifiable under Customs Tariff Heading No.38089290 at ICD Dadri. The Customs authorities found that the said goods were insecticides and there was regulation that insecticides would be allowed at specified port therefore proceedings were initiated for confiscation of the goods and imposition of penalty. The issue was decided

through Order-in-Original dated 11.9.2015 wherein the goods were confiscated and allowed to be redeemed on redemption fine of Rs.8.00 lakhs. Further penalty of Rs.2 lakhs was imposed on importer i.e. present appeal under 112 of Customs act, 1962. The appellant did not contest the said Order-in-Original. However Revenue preferred an appeal before commissioner(appeals). The ld.Commissioner(Appeals) has enhanced the redemption fine to the tune of 25% of the value of the goods which was Rs.99,77,802/- and enhanced the penalty to the tune of Rs.997780/- from Rs.2.00 Lakhs. Aggrieved by the enhancement in redemption fine and penalty appellant has preferred this appeal.

3. Heard the ld.counsel for the appellant. Ld. Counsel for appellant submitted that it was mistake on their part to have imported said goods at a port which was not specified for said goods and it was due to a mistake by a lower employee of the organization and only consideration for such an import was saving on the cost of transportation since the said port of importation is nearest to the location of the factory. While considering the distance inadvertently they overlooked the said regulation and therefore the mistake happened. The ld.counsel also assured that they will not do it again. The ld.Counsel also submitted that the redemption fine and the penalty imposed by the original authority has been paid by them.

4. Heard the ld.AR, who has submitted that insecticides are sensitive commodities and regulation was for the purpose of avoiding any accidents by mixing of insecticides with other components. He supported the impugned order.

5. Having considered submissions from both sides and in view of the fact that the fine and penalty imposed has been paid up without contest by the appellant and in view of the fact that they have realized the mistake and also assured that they would not repeat it in future, I set aside the order-in-appeal

passed by the ld.Commissioner(appeals), which is impugned order-in-appeal and restore the order-in-original dated 11.09.2015. In above terms appeal is allowed.

(Dictated and pronounced in the court.)

SD/
(ANIL G. SHAKKARWAR)
MEMBER(TECHNICAL)

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