

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

**C/70531/2017-CU[DB], C/70529/2017-CU[DB],
C/70530/2017-CU[DB]**

(Arising out of Order-in-Original No.2-4/COMMR/HPR/2017-18 dated 25.04.2017 passed by Commissioner, Customs, Central Excise & Service Tax, Hapur.)

Shri Imran Ahmed, M/s.Modern Metal Overseas, Mohd.Arif
...APPELLANT(S)

VERSUS

Commissioner of Customs, Central Excise & Service Tax, Hapur
RESPONDENT (S)

APPEARANCE

Shri Anurag Mishra (Advocate) & Ms.Pragya Pandey (Advocate) for the
Appellant (s)
Shri Rajeev Ranjan (Addl.Commr.) (A.R.) for the Revenue

CORAM:

SHRI ASHOK JINDAL, HON'BLE MEMBER(JUDICIAL)
SHRI ANIL G. SHAKKARWAR, HON'BLE MEMBER(TECHNICAL)

DATE OF HEARING/DATE OF DECISION 26.07.2018

FINAL ORDER NO.71648-71650/2018

Per Ashok Jindal :

The appellants are in appeal against the impugned order wherein their goods have been seized by D.R.I. and lateron confiscated. Consequently redemption fine and penalties were imposed.

2. The facts of the case are that the appellants are located in S.E.Z. area and having a license to import the impugned goods which are to be re-exported after processing. The appellant imported certain brass scrap under the said license. D.R.I. came to know that said brass scrap imported by the appellant is not scrap, but is a prime material.

Therefore the said goods were seized and adjudication took place wherein the goods were held liable for confiscation. Consequently, the redemption fine and penalties were imposed. Differential duty was also demanded along with interest. Personal penalty on the co-noticees was also imposed. Against that order, the appellants are before us.

3. Heard the parties.

4. Considering the facts of the case are not disputed that the appellants are located in Special Economic Zone and having a license to import the impugned goods. Therefore, relying on the decision of the Tribunal in the case of Morgan Tectronics Ltd. v. Commissioner of Customs, New Delhi [2015 (316) E.L.T. 276 (Tri.-Del.)], wherein the Tribunal has observed as under:-

"8. Moreover, in terms of the Section 53(1) of the SEZ Act, 2005, the SEZ is deemed to be territory outside the Customs Territory of India, and the goods imported were meant for the unit in SEZ Noida. In our view, the Commissioner of Customs, Air Cargo, New Customs House, New Delhi had no jurisdiction to confiscate these goods and impose penalty on the appellant and it is only the joint/Dy. Commissioner/Asstt. Commissioner of Customs, in Noida SEZ unit, who had the jurisdiction to take necessary action. For this reason also, the impugned orders are not sustainable."

We hold that the Customs officers have no jurisdiction on the appellant to seize the goods in S.E.Z. area therefore seizure of the goods in question is set aside. Consequently, no demand can be confirmed against the appellants. Therefore the confiscation of the impugned goods is also set aside.

5. In result, redemption fine and penalties are also not imposable on the appellants.

6. With these terms, the appeals are allowed with consequential relief, if any.

(Dictated and pronounced in the open Court.)

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

SD/
(ASHOK JINDAL)
MEMBER (JUDICIAL)

sm