IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. C/3626/2012-CU[DB]

(Arising out of Order-in-Appeal No.137-CUS/GZB/2012 dated 27/07/2012 passed by Commissioner (Appeals), Customs, Central Excise & Service Tax, Ghaziabad)

M/s Sriji Corporation Pvt. Ltd. **Appellant**

Vs.

Commissioner of Customs &

Central Excise, Ghaziabad **Respondent**

Appearance:

Shri S. Sunil (Advocate) for Appellant
Shri Pawan Kumar Singh (Supdt.) AR for Respondent

CORAM:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 19/07/2018
Date of Decision : 19/07/2018

FINAL ORDER NO. - **71661/2018**

Per: Archana Wadhwa

After hearing both the sides, we note that the imported goods have been confiscated on the findings of mis-declaration of the description of the same with an option to the appellant to redeem the same on payment of redemption fine of Rs.20 lakhs. In addition, the penalty of Rs.6.50 lakhs stand imposed upon the appellant in terms of Section 112 of the Customs Act, 1962.

2. The imported goods, which were declared by the appellant as Re-melted Brass Ingots were, on test, found to be Re-melted Copper Ingots having higher value than the declared value. The appellant accepted the above mis-declaration before the Appellate Authorities below. He submitted that the same has occurred on account of the mix up at the end of the foreign supplier who had subsequently sent a letter also to the appellant. However, the stands of the appellant has not been accepted by the Lower Authorities on the ground that the said communication has been arranged by the appellant during the intervening period of first check up and second test.

3. At this stage, the learned advocate appearing for the appellant is neither contesting the charge of mis-declaration nor the valuation adopted by the Customs and the consequent confirmation of the duty, nor the fact of the confiscation of the goods with the redemption fine of Rs.20 lakhs. He submits that they have already paid higher duty along with the redemption fine and got the goods cleared from the Customs Authority.

4. The only challenge in the present appeal is to penalty of Rs.6.50 lakhs. Learned advocate submits that keeping in view the facts that the mix up of the exported goods was at the end of foreign supplier and keeping in view the fact that appellant cooperated with the Customs Authorities and came forward for the retest of the same, the penalty imposed on the appellant be reduced.

5. Though, we note that the Lower Authorities have not accepted the stands of the assessee that they came forward for the retest but extending the benefit of doubt to the appellant, we are of the view that the penalty imposed upon him can be reduced, especially in view of fact that they have cleared goods on payment of higher rate of duty as also on payment of redemption fine of Rs.20 lakhs. Accordingly, we reduce the penalty from Rs.6.50 lakhs to Rs.3 lakhs. But for the above reduction in the quantum of penalty, the appeal is otherwise rejected.

(Dictated & Pronounced in Court)

Sd/-	**Sd/-**
(Anil G. Shakkarwar)	**(Archana Wadhwa)**
Member (Technical)	**Member (Judicial)**

Lks