CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT No. I

Service Tax Appeal No.71349 of 2018-[DB]

(Arising out of Order-in-Appeal No.254-Cus/Appl/LKO/2018 dated 19/04/2018 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Lucknow)

M/s Raghu Computers Pvt. Ltd., ...Appellant

(1st Floor, Awadh Towers, Hazratganj, Lucknow)

VERSUS

Commissioner of Custom (Preventive), ...Respondent

(Commissionerate, Lucknow)

APPEARANCE:

Ms Vanashri Dubey, Advocate for the Appellant
Shri Pawan Kumar Singh, Assistant Commissioner Authorised Representative for the Respondent

CORAM: **HON'BLE SMT. ARCHANA WADHWA, MEMBER (JUDICIAL)**
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

FINAL ORDER NO-71635 / 2019

DATE OF HEARING : 29 August, 2019
DATE OF DECISION : 29 August, 2019

PER: ANIL G. SHAKKARWAR

After hearing both the sides duly represented by Ms Vanashri Dubey learned Advocate appearing on behalf of the appellant and Shri Pawan Kumar Singh learned Authorised Representative appearing on behalf of the revenue, we note that the appellant had imported certain consignments through Air-cargo at Amausi Airport, Lucknow and filed a Bill of Entry No.17/2016-17 dated 26.04.2016 claiming the effective rate of duty of basic customs duty, CVD and SAD to be NIL under Notifications respectively No.12/2012-Cus dated 17.03.2012 dated 21/2012-Cus dated 17.03.2012 and after the Bill of Entry was assessed by Air Customs Officers, International Airport Amausi, Lucknow, the goods were cleared without payment of any Customs duty under the said claims of exemptions. Subsequently, a show cause notice dated 13.04.2017 was issued by Additional Commissioner Customs, contending that the appellant were not entitled to said exemption and therefore, raising a demand of Customs duty of around Rs.5 lakhs. The demand was confirmed by the Original Adjudicating Authority and learned Commissioner (Appeals) did not interfere, therefore, the present appeal.

2. After hearing both the sides and on perusal of record, we note that the demand was raised by Additional Commissioner against assessed Bill of Entry. We note that it is a settled law that assessment of goods through a Bill of Entry is an adjudication order and the same needs to be appealed against if revenue is aggrieved by the said assessment. Such procedure was not followed and therefore, in respect of the goods cleared the jurisdiction was with Jurisdictional Commissioner (Appeals) and not with the Additional Commissioner and the issue is settled by pronouncement of Hon'ble Supreme Court in the case of M/s Priya Blue Industries Ltd. reported at 2004 (172) ELT 145 (SC). By following the ruling of Hon'ble Supreme Court in the case of Priya Blue, we hold that in the instant case Additional Commissioner did not have jurisdiction to raise the demand. We, therefore, set aside the impugned order and allow the appeal.

(Dictated and pronounced in open court)

SD/-
(Archana Wadhwa)
Member (Judicial)

SD/-
(Anil G. Shakkarwar)
Member (Technical)

akp