CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL ALLAHABAD

REGIONAL BENCH - COURT No. I

Customs Stay Application No.70171 of 2019
(On behalf of appellant)
In
Customs Appeal No.70245 of 2019

(Arising out of Order-in-Appeal No.541-CUS/APPL/LKO/2018 dated 31/10/2018 passed by Commissioner (Appeals) Customs, GST & Central Excise, Lucknow)

Commissioner of Customs (Prev.) Lucknow .....Appellant

(5th Floor Kendriya Bhawan, Sector-H, Aliganj, Lucknow)

VERSUS

Shri Rakesh Kumar Verma ....Respondent

(R/o Village Nayak Gali, Tikamgarh M.P.-472001)

WITH

Customs Stay Application No.70192 of 2019
(On behalf of appellant)
In
Customs Appeal No.70306 of 2019

(Arising out of Order-in-Appeal No.12-CUS/APPL/LKO/2019 dated 17/01/2019 passed by Commissioner (Appeals) Customs, GST & Central Excise, Lucknow)

Commissioner of Customs (Prev.) Lucknow .....Appellant

(5th Floor Kendriya Bhawan, Sector-H, Aliganj, Lucknow)

VERSUS

Shri Shashi Chaudhary, Pro. of

M/s Prem Enterprises ....Respondent

(159, Ravindra Sarini, Second Floor, Kolkata-700007)

APPEARANCE:

Absent on Call for the Appellant
Shri Anupam Kumar Tiwari, Authorised Representative for the Respondent

CORAM:

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

MISCELLANEOUS ORDER NOS.- 70350-70351 / 2019

FINAL ORDER NOS.- 71925-71926 / 2019

Date of Hearing : 06 November, 2019
Date of Decision : 06 November, 2019

PER: ARCHANA WADHWA

After rejecting the Stay petition filed by the Revenue on both the appeals, we proceed to decide the appeals itself inasmuch as a short issue covered by the precedent decision is involved.

2. Commissioner (Appeals) vide his impugned order has set aside the confiscation of the seized betel nuts and the imposition of penalties by observing that the report of Arecanut Research & Development Foundation, relied upon by the Revenue, in support of their stand that betel nuts in question were of foreign origin, is not appropriate and in the absence of any evidence to show that the betel nuts were smuggled, the confiscation of the same cannot be upheld, we find that the issue stands decided by the Tribunal in the case of Commissioner of Customs (Prev.) vs. Shashi Chaudhary vide Final Order No.71899/2019 dated 12/09/2019 as also in the case of Commissioner, Customs (Prev.), Lucknow vs. Maa Gauri Traders vide Final Order No.72729/2018 dated 26/11/2018.

3. By following the above decisions, we find no infirmity in the impugned order of Commissioner (Appeals). Accordingly, both the appeals of the Revenue are rejected. Stay petition also gets disposed of.

(Dictated and pronounced in open court)

Sd/-
(Archana Wadhwa)
Member (Judicial)

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

Lks