CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 1865 of 2010

(Arising out of Order-in-Appeal No. 01/2010 dt. 15/02/2010 passed by Commissioner Of Customs(Appeals), Cochin)

Hindustan Unilever Ltd.,
Tatapuram,
Cochin – 682 014.

Appellant(s)

VERSUS

Commissioner of Customs,
Customs House,
Cochin 682 009.

Respondent(s)

APPEARANCE:

Shri Kuriyan Thomas, Advocate for the appellant.
Shri K.A. Jathin, Dy. Commissioner(AR) for the respondent.

CORAM:
HON'BLE Dr. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE Mrs. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20517 / 2023

Date of Hearing: 07/06/2023
Date of Decision: 07/06/2023

Per : DR. D.M.MISRA

This is an appeal filed against the Order-in-Appeal No.01/2010 dt. 15/02/2010.

2. Briefly stated the facts of the case are that the appellant had filed into bond Bills of Entry for clearance of Palm Fatty Acid Distillate in bulk during August 2006. When the goods were provisionally assessed by the adjudicating authority, the transaction value was loaded with ship

demurrage charges following the circular of the Board dt. 26/09/2006. Aggrieved by the said order, they preferred an appeal before the Commissioner(Appeals), who in turn rejected the same.

3. At the outset, the learned counsel for the appellant submits that the issue of loading of ship demurrage charges for the period in question is no more res integra and covered by the judgment of the Hon'ble Supreme Court in the case of CC, Mangalore Vs. MGM International Exports Ltd. [2022(380) ELT 3 (SC)].

4. Learned AR for the Revenue reiterates the findings of the lower authorities.

5. We find that the issue is squarely covered by the judgment of the Hon'ble Supreme Court in the case of CCE, Mangalore Vs. Mangalore Refinery & Petrochemicals Ltd. [2015(325) ELT 214 (SC)] whereunder their Lordships observed as:-

> ***5.*** *We have heard the counsel for the parties at length. It is not even necessary to go into the various nuances of the matter as we are of the opinion that these appeals are bound to fail on one simple ground. The demurrage charges are admittedly incurred after the goods reached at Indian ports and, therefore, it is a post-importation event. Such charges, therefore, cannot form part of the transaction value. Issue in this behalf is settled by this very Bench in the case of Commissioner of Customs, Ahmedabad v. M/s. Essar Steel Ltd., 2015 (319) E.L.T. 202 (S.C.).*

The said judgment was later approved in the case of CC, Mangalore Vs. MGM International Exports Ltd. (supra). In the result, the impugned order is set aside. Appeal is allowed with consequential relief, if any, as per law.

(Dictated and pronounced in open court)

(Dr. D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

Raja...