

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 1

Appeal(s) Involved:

Customs Appeal No. 2073 of 2011

*(Arising out of Order-in-Original No.6/2011 dated
7.6.2011 passed by the Commissioner of Customs,
Cochin.)*

**M/s. Kizhakkethil Steel
Rolling Mills**

Chozhiyakkadu,
Channanidada P.O.,
Kottayam - 686 533.

Appellant(s)

Versus

The Commissioner of Customs

Custom House
Cochin.

Respondent(s)

Appearance:

Mr. R. Balagopal, Consultant

For the Appellant

Mr. Rajesh Shastry,
Superintendent (AR)

For the Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)

HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20689 /2023

Date of Hearing: 22.06.2023

Date of Decision: 22.06.2023

Per : R. BHAGYA DEVI

The appellant is a manufacturer of steel ingots. They had filed 5 Bills of Entry on 8.3.2011 for clearance of heavy melting scrap, prime rods and used scaffolding / building materials. The above goods being used goods are not freely importable in terms of Para 2.17 of the Foreign Trade Policy 2009 - 2014. Since the

appellant had not produced any license, the goods were liable for confiscation. Accordingly, the goods were confiscated under Section 111(d) of the Customs Act, 1962 read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992. An option was given to redeem the same on payment of redemption fine of Rs.7,00,000/- under Section 125 of the Customs Act, 1962 and a penalty of Rs.3,00,000/- on the appellant was also imposed under Section 112(a) of the Customs Act, 1962. Aggrieved by this order, appellant has filed this appeal.

2. Shri R. Balagopal, Consultant appeared on behalf of the appellant submitted that while admitting that the items imported were used goods and without disputing the valuation of the goods, he pleaded only for reduction in redemption fine and penalty. The appellant stated that this was their first import and were not aware of the fact that license had to be produced. However, they accepted the enhanced value assessed by the approved Chartered Engineer and since demurrage charges are being incurred, pleaded for an lenient view in imposing fine and penalty.

3. Heard learned Authorised Representative Mr. Rajesh Shastry, who while reiterating the findings of the Commissioner (A), submitted that imposition redemption fine of 10% and penalty of 5% of the assessable value, is in terms of law.

4. The appellant has not disputed that they are used goods and also accepted the value of the Chartered Engineer. The goods were imported in the year 2011 and are lying for almost 12 years. In the interest of justice, we are of the opinion that the goods may be allowed to be redeemed on payment of redemption fine is reduced to 5,00,000/- (Rupees Five Lakhs Only) and penalty of Rs.2,00,000/- (Rupees Two Lakhs Only).

5. The impugned order is modified in above terms and the appeal is partially allowed.

(Order dictated and pronounced in Open Court.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)