CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 1727 of 2012

(Arising out of Order-in-Appeal No.66/2012 dated 27.03.2012 passed by the Commissioner of Customs (Appeals), Bangalore.)

M/s. Forbin Poly Glass
No.26, MM Industrial Estate
K.R. Road,
West of Jayanagar,
Bangalore – 560 082.

Appellant(s)

Versus

The Commissioner of Custom
P.B. No.5400, CR Building,
Queens Road,
Bangalore – 560 001.

Respondent(s)

Appearance:

Shri T. Krishna, Advocate — For the Appellant

Shri Maneesh Akhoury, AR — For the Respondent

CORAM:

HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 21423 /2023

Date of Hearing: 19.12.2023
Date of Decision: 19.12.2023

Per : R. BHAGYA DEVI

This appeal is filed against the impugned Order-in-Appeal No.66/2012 dated 27.3.2012. This is a case of mis-declaration and undervaluation of the goods imported. The authorities below found that the imported item was A-15 Tender Rigid Inflatable Boat of APEX making which was mis-declared as A-15 Open

Rigid Inflatable Boat vide Bill of Entry No.2825505 dated 22.2.2011. Shri Harish J Padmanabh, Proprietor of M/s. Forbin Poly Glass (the Appellant) in his statement had clearly admitted that he was not aware of the model as there was no purchase order and hence, accepting the misdeclaration requested vide letter dated 26.3.2011 to adjudicate the case without issuance of show-cause notice and also requested the authorities to take a lenient view. Similarly, Shri Desikan K.S, partner of M/s. Supreme Freight Services, CHA, for this consignment, in his statement dated 17.3.2011 submitted that he was aware that the goods were mis-declared and undervalued. M/s. IMCO Services InC New York vide their letter dated 28.3.2011 who specializes in exports of boats and marine equipment submitted that their associate company mentioned the boat model wrongly and regretting the error provided the corrected invoice for A-15 Tender Rigid Boat as USD 8247.50. However, the Revenue after ascertaining the value of imported goods as USD 15,495 from the website of the manufacturer, when questioned the importer, it was stated that they had purchased it at 50% discount. The veracity of this claim could not be ascertained and there was no evidence to this effect produced by the importer. Accordingly, the goods A-15 Tender Rigid Boat was reclassified and valued at UDS 15,495 and the importer was allowed to redeem the goods on redemption fine of Rs.1,00,000/- under Section 125 of the Customs Act, 1962 while imposing penalty of Rs.25,000/- under Section 112(a) of the Customs Act, 1962. Aggrieved by this order, appellant is before us.

2. When the matter came up for hearing today, the learned counsel accepts that it was clearly admitted by the proprietor of the appellant-company and the CHA that this was a case of mis-declaration and undervaluation. There is nothing placed on record to disprove either the mis-declaration or undervaluation of the goods that were imported. In view of the admitted facts on misdeclaration and undervaluation, we find that the redemption fine is only Rs.1,00,000 and penalty imposed is only Rs.25,000/- which is 10% of the duty liability, which is reasonable. Therefore, we find no reason to interfere with the impugned order. Consequently, the impugned order is upheld and the appeal is dismissed.

(Operative portion of the Order was pronounced in Open Court.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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