CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 20918 of 2016

(Arising out of Order-in-Appeal No. 176/2016 dated 15.03.2016 passed by the Commissioner of Customs (Appeals), Bangalore.)

M/s. Essilor India Pvt. Ltd.
6th Floor, 71/1, SC Road,
Brigade Plaza,
Near Ananda Rao Circle,
Bangalore – 560 009.

Appellant(s)

VERSUS

Commissioner of Customs,
C.R. Building, Queens road,
Bangalore – 560 001.

Respondent(s)

APPEARANCE:

Mr. Pratheek, Advocate, for the Appellant

Mr. K. Vishwanatha, 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. 20407 /2024

DATE OF HEARING: 05.04.2024
DATE OF DECISION: 05.04.2024

PER : DR. D.M. MISRA

This is an appeal filed against Order-in-Appeal No.176/2016 dated 15.03.2016 passed by the Commissioner of Customs (Appeals), Bangalore.

2. Briefly stated the facts of the case are that the appellant had imported semi-finished spectacle lenses classifying the same under CTH 90019090 along with finished spectacle lenses under CTH 90015000 claiming concessional rate of duty as per Preferential Trade Agreement towards procurement from their principals viz. M/s. Essilor Philippines and M/s. Essilor

Manufacturing, Thailand in accordance with Notification No.46/2011-Cus dated 01.06.2011. During scrutiny of the documents, it was found that the country of original certificate in respect of semi-finished lenses did not match with CTH declared by the importer. Accordingly, the benefit of exemption Notification was denied to the appellant and duty amounting to Rs.91,947/- was demanded with interest concerning Bills of Entry No.7317820 dated 16.07.2012 and No.7511759 dated 27.07.2012. Aggrieved by the said order, they filed appeal before the learned Commissioner(Appeals) who in turn rejected the appeal in respect of the said two Bills of Entry. Hence, the present appeal.

3. At the outset, the learned advocate for the appellant has submitted that on the basis of the judgment of the Tribunal in their own case reported in 2008(225) ELT 546, they declared classification of the semi-finished spectacle lenses under CTH 90019090 in the respective Bills of Entry. He has submitted that the Hon'ble Supreme Court by its order dated 22.04.2016 reported in 2016(335) ELT 584(SC) held that even though the appellant mentioned the goods as semi-finished spectacle lenses in all the documents, but the same cannot be treated as semi-finished and appropriately classifiable under the category of finished spectacle lenses attracting the CTH 90015000. Consequently, the Bills of Entry No.7317820 dated 16.07.2012 and No.7511759 dated 27.07.2012 declaring the goods as semi-finished spectacle lenses be considered as finished spectacle lenses and the appellants are entitled to the benefit under Preferential Trade Agreement as per Notification No.46/2011-Cus dt. 01.06.2011. They have produced the Certificate of Original in connection with 6 Bills of Entry being received from Thailand.

4. Learned AR for the Revenue reiterated the findings of the learned Commissioner(Appeals).

5. Heard both sides and perused the records.

6. We find that on the basis of the judgment of this Tribunal, the appellant declared their imported goods as semi-finished spectacle lenses in the respective Bills of Entry which now held to be correctly classifiable as finished spectacle lenses falling under CTH 90015000 in view of the judgment of the Hon'ble Supreme Court date 22.04.2016. since the appellant has already placed the Certificate of Original of the said goods as Thailand, following the judgment of the Hon'ble Supreme Court, the appellants are eligible for the benefit of Notification No.46/2011-Cus dated 01.06.2011. We hold that that appellants are entitled to the benefit of the said notification. In the result, the impugned order rejecting the benefit of the said notification in respect of the Bills of Entry No.7317820 dated 16.07.2012 and No.7511759 dated 27.07.2012 is hereby set aside and the appeal is allowed with consequential relief to the appellant, if any, as per law.

(Order dictated and pronounced in Open Court.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R BHAGYA DEVI)
MEMBER (TECHNICAL)

Raja……