CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 20585 of 2016

(Arising out of Order-in-Appeal No. 28/2016 dated 19.01.2016 passed by the Commissioner of Customs (Appeals), Bangalore.)

M/s. A B Mauri India Pvt. Ltd.,
(Formerly known as M/s. Florale India Pvt. Ltd.),
No. 218 & 219,
Bommasandra, Jigani Link Road,
Anekal Taluk,
Bangalore – 562 106.

Appellant(s)

VERSUS

The Commissioner of Customs
C.R. Building, P.B No. 5400,
Queens Road,
Bangalore – 560 001.

Respondent(s)

APPEARANCE:

Mr. Jayaram Hiregange, Advocate for the Appellant

Mr. K.A. Jathin, Deputy 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. 21128 /2024

DATE OF HEARING: 10.10.2024
DATE OF DECISION: 10.10.2024

PER : D.M. MISRA

This is an appeal filed by the appellant against the Order-in-Appeal No. 28/2016 dated 19.01.2016 passed by the Commissioner of Customs (Appeals), Bangalore.

2. The appellants had imported goods vide advance License No. 0710049625 dated 18.01.2007 without payment of duty under DEEC scheme and had executed DEEC Bond towards duty foregone on the goods sought to be imported, in terms of

Notification No.93/2004-Cus. dated 10.09.2004. The appellant had to export the resultant products within a specified period from the date of issuance of the licenses and also required to produce Export Obligation Discharge Certificate (EODC) issued by JDGFT within 30 days from the expiry of specified export obligation confirming fulfilment of the export obligation, in terms of quantity and value. Since the appellant had failed to produce the EODC, a show-cause notice dated 29.10.2012 was issued to the appellant proposing to confirm the duty along with the applicable interest, proposal for confiscation of imported goods under Section 111(o), for enforcement of the bond executed and penalty was imposed under Section 112(a) and 117of the Customs Act, 1962. On adjudication, the original authority confirmed duty demand of Rs.13,61,343/-, imposed redemption fine of Rs.5,00,000/- under Section 125 of the Customs Act, 1962 and penalty of Rs.2,50,000/- under Section 112(a) and penalty of Rs.1,00,000/- under Section 117 of the Customs Act, 1962. Aggrieved by this order, appellant preferred an appeal before the learned Commissioner (A), who upheld the order of the original authority. Hence, the present appeal.

3. The learned advocate for the appellant submits that they have fulfilled the export obligation and they are in the process of getting the requisite certificate from the licensing authority and since there was change in company’s name they had difficulty in obtaining the certificate. He relies on the CBEC Circular No.16/2017-Cus. dated 02.05.2017 and prays for remanding the matter to the adjudicating authority for producing the EODC certificate.

4. The learned Authorised Representative for the Revenue reiterated the findings of the learned Commissioner (Appeals).

5. Heard both sides and perused the records.

6. The only issue involved in this case is non-production of Export Obligation Discharge Certificate (EODC) by the appellants. In the impugned order, the learned Commissioner (Appeals) has observed that though the appellant had claimed to have fulfilled the export obligation; however since the appellant could not procure EODC from the DGFT authorities within the time limit, demand was confirmed by the adjudicating authority. Consequently, their appeal was dismissed. It is now submitted that the appellant had requested the DGFT authorities for redemption of the license, however, no communication had been received from the DGFT or EODC certificate has been received and they are pursuing the matter before DGFT. Consequently, the impugned order is set aside and the appeal is remanded to the adjudicating authority in view of Circular No.16/2017-Cus. dated 02.05.2017 to decide the case on the basis of EODC certificate as and when issued by DGFT.

7. Appeal is allowed by way of remand.

(Operative part of this Order was pronounced in Open Court on conclusion of the hearing.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R BHAGYA DEVI)
MEMBER (TECHNICAL)

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