CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 20002 of 2017

(Arising out of Order-in-Appeal No. COC-CUSTM-000-APP-107/2016-17 dated 04.10.2016 passed by the Commissioner of Customs (Appeals), Cochin.)

Shri Grishin Chandran,
1/135 to 137, Velappaya
Mulankunnath,
Thrissur.

Appellant(s)

VERSUS

The Commissioner of Customs,
Customs House,
Willingdon Island,
Cochin – 682 009.

Respondent(s)

APPEARANCE:

Mr. M. Balagopal, Advocate 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. 21168 /2024

DATE OF HEARING: 05.11.2024

DATE OF DECISION: 05.11.2024

PER: R. BHAGYA DEVI

This appeal is filed against Order-in-Appeal No. 107/2016-17 dated 04.10.2016 passed by the Commissioner of Customs (Appeals), Cochin.

2. The appellant Shri Grishin Chandran imported 'Kawazaki Motorcycle (KX-250X)' and declared the value as 3,450 Canadian Dollars, declaring the Country of Origin as Canada. On examination, it was found that the Motorcycle was manufactured in Japan and the vehicle did not conform to the Motor Vehicles Act and was imported through a non-designated port. With regard to valuation based on the Country of Origin and year of manufacture, the value was enhanced, which was accepted by the appellant vide letter dated 18.08.2016. Since, the Country of Origin was mis-declared, the motorcycle was confiscated under Section 111(d) of the Customs Act, 1962 and allowed to be redeemed on payment of redemption fine of Rs.30,000/- along with Rs.25,000/- penalty under Section 112(a) of the Customs Act, 1962. This order was upheld by the Commissioner (Appeals). Aggrieved by this, the appellant is appeal before us.

3. Heard both sides and perused the records. The appellant does not dispute the valuation, however, prayed for reduction in redemption fine and penalty. From the records, we find that the value of the motorcycle was redetermined to Rs.3,81,854/-. The fact that the vehicle is manufactured in Japan being not disputed, the goods were rightly confiscated for mis-declaration of Country of Origin and value of the motorcycle. Taking into consideration the value of the vehicle, which was fixed at Rs.3.81 lakhs, the redemption fine of Rs. 30,000/-, which is less than 10% of the value needs no interference. The appellant submitted that the motorcycle was meant for off road racing and it did not require a registration under Motor Vehicles Act and hence, there was no violation of the Motor Vehicles Act and also submitted that he had incurred huge amount as demurrage and detention charges since the goods were lying in the port area for a long time. Taking into consideration these facts, the penalty is

reduced from Rs. 25,000/- to Rs. 10,000/- (Rupees Ten Thousand Only).

Appeal is disposed of.

(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)

rv