CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 20725 of 2018

(Arising out of Order-in-Appeal No.35/2016 dated 21.01.2016 passed by the Commissioner of Customs(Appeals), Bangalore)

M/s. Miven Mayfran Conveyors Pvt. Ltd.,
Sirur Compound, Karwar Road,
Hubli – 580 024.

Appellant(s)

VERSUS

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

Respondent(s)

APPEARANCE:

None for the Appellant

Mr. Maneesh Akhoury, Asst. 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. 21189 /2024

DATE OF HEARING:02.12.2024
DATE OF DECISION:02.12.2024

PER : DR. D.M. MISRA

None present for the appellant; however, there is a request for adjournment. On perusal of the case records with the assistance of learned AR for the Revenue, the appeal is taken up for final disposal since the issue involved falls in a very narrow compass.

2. This is an appeal filed by the appellant against the Order-in-Appeal No. 35/2016 dated 21.01.2016 passed by the Commissioner of Customs (Appeals), Bangalore.

3. The appellants had imported goods vide advance License No. 0710058540 dated 15.07.2008 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 26.11.2014 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) of the Customs Act, 1962. On adjudication, the original authority confirmed duty demand of Rs.4,76,000/- and penalty of Rs.1,00,000/- under Section 112(a) 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.

4. In the grounds of appeal, the appellant has submitted that they have fulfilled the export obligation and they are in the process of getting the requisite certificate from the licensing authority. They relied 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.

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

6. Heard the learned AR for the Revenue and perused the records.

7. 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.

8. Appeal is allowed by way of remand.

(Order dictated and pronounced in Open Court)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R BHAGYA DEVI)
MEMBER (TECHNICAL)

Raja…