CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

CUSTOMS APPEAL NO.20720 OF 2021

(Arising out of Order-in-Appeal No.234/2011 dated 23.12.2011 passed by the Commissioner of Customs (Appeals), Bangalore)

M/s. Pointec Writing Instruments Pvt. Ltd.,
No.26-A, Attibele Industrial Area,
Attibele,
Bangalore-562 107.

Appellant(s)

VERSUS

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

Respondent(s)

APPEARANCE:

Mr. B. Venugopal & Mr. Satish Giri, Advocates for the Appellant
Mr. Maneesh Akhoury, Asst. Commissioner (AR) for the Respondent

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MR. PULLELA NAGESWARA RAO, MEMBER (TECHNICAL)

Final Order No. 22020 /2025

DATE OF HEARING: 01.08.2025
DATE OF DECISION: 01.08.2025

PER : D.M. MISRA

This is an appeal filed by the appellant against the Order-in-Appeal No. 234/2011 dated 23.12.2011 passed by the Commissioner of Customs (Appeals), Bangalore.

2. Briefly stated the facts of the case are that the appellants had imported goods viz. printed inlay cards, PVC plastic tubes etc. vide advance Licenses issued by the JDGFT 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.43/2002-Cus. dated 19.04.2002. 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 27.02.2008 was issued to the appellant proposing to confirm the duty along with the applicable interest, penalty was imposed under Section 112 of the Customs Act, 1962. On adjudication, the original authority confirmed duty demand of Rs.87,67,668/- and penalty of Rs.1,00,000/- under Section 112(a)(ii) of the Customs Act, 1962. Aggrieved, the appellant preferred an appeal before the learned Commissioner (A), who upheld the order of the original authority. Hence, the present appeal.

3. Learned advocate for the appellant has submitted that the impugned order has been passed without giving time for the appellant to produce the necessary EODCs / Redemption certificate and for non-payment of Rs.40.0 lakhs towards pre-deposit, which is harsh and unjustified. He further submitted that they have fulfilled the export obligation and they had obtained the requisite EODCs from the licensing authority. They relied on the CBEC Circular No.16/2017-Cus. dated 02.05.2017 and prayed 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. Now, the appellant has submitted that they had obtained necessary certificate from the DGFT authorities. Consequently, the impugned order is set aside and the appeal is remanded to the adjudicating authority to decide the case on the basis of EODC certificate 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)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

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