CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH
BANGALORE

Appeal(s) Involved:

C/20899/2016-DB

[Arising out of Order-in-Appeal No. 203/2016 dated 15/03/2016 passed by the Commissioner of Customs, Bangalore-I (Appeals)]

East India Packaging Pvt. Ltd. Presently Known As East India Technologies Pvt. Ltd. No. 17, Kammanahalli Meenakshi Temple Bannerghatta Road, Begur Hobli South Taluk Bangalore – 560 076 Karnataka	**Appellant(s)**

Versus

Commissioner of Customs Bangalore C.R. Building, Queens Road, P.B. No. 5400, Bangalore – 560 001 Karnataka	**Respondent(s)**

Appearance:

Mr. H.Y. Raju, Advocate	For the Appellant
Mr. Madhupsharan, Assistant Commissioner (AR)	For the Respondent

Date of Hearing: 26/07/2018
Date of Decision: 26/07/2018

CORAM:
HON'BLE MR. S.S GARG, JUDICIAL MEMBER
HON'BLE MR. P. ANJANI KUMAR, TECHNICAL MEMBER

Final Order No. 21008 / 2018

Per : S.S GARG

The present appeal is directed against the impugned order dated 15.03.2016 passed by the Commissioner of Customs (Appeals) whereby the

Commissioner (Appeals) has rejected the appeal of the appellant and upheld the Order-in-Original. Briefly the facts of the present case are that the appellants are engaged in the manufacture of Expandable Polystyrene Foam products falling under Heading 39239090 of the Customs Tariff and Wooden Pallets of various dimensions/sizes falling under Heading 44152000 of the Customs Tariff and products are used as packing materials and are mainly cleared by the appellant to Electronic Hardware Technology Unit (EHTP) and the goods cleared to EHTP in terms of the provisions of Chapter 8 of the Foreign Trade Policy 2004-09/2009-14. A show-cause notice was issued to the appellant on the ground that the appellants have not fulfilled the export obligation against the Advance Authorization No. 710049194 dated 26.12.2006 issued by the JDGFT, Bangalore. After following the due process, the Joint Commissioner vide order dated 29.05.2015 confirmed the demand for non-submission of Export Obligation Discharge Certificate. Aggrieved by the said order, appellant filed appeal before the Commissioner who also rejected the appeal only on the ground that the appellant has failed to produce the required EODC showing that they have fulfilled the export obligation.

2. Heard both parties and perused the records.

3. Learned counsel for the appellant submitted that the impugned order passed by the Commissioner is only on the ground that the appellant has failed to produce the EODC. He further submitted that he has fulfilled the export obligation and conditions of advance license and has applied to the DGFT for issuing the EODC but the same could not be produced before the adjudicating authority and the appellate authority. He further submitted that

he has produced the said certificate before this Tribunal which is on record dated 22.09.2016 issued by the DGFT and EODC clearly shows that the appellant has completed the export obligation in full value as well as in quantity term, in proportion to import made and the case has been redeemed in terms of Para 4.26 of Handbook of Procedures 2004-09. He further submitted that in view of the redemption letter issued by the DGFT his appeal may be allowed.

4. After considering the submissions of the counsel for the appellant and after perusal of the redemption letter dated 22.09.2016 issued by DGFT, we find that the appellant has completed the export obligation which has been certified in the letter issued by the DGFT. Since the only ground on which demand was confirmed was non-submission of EODC and the same has now been submitted by the appellant. In view of this redemption letter, we are of the considered view that the impugned order is not sustainable in law and therefore the same is set aside by allowing the appeal of the appellant.

(Operative portion of the Order was pronounced
in Open Court on **26/07/2018**)

(P. ANJANI KUMAR)
TECHNICAL MEMBER

(S.S GARG)
JUDICIAL MEMBER

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