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

Application(s) Involved:

C/ROA/20412/2015 in C/342/2006-DB

Appeal(s) Involved:

C/342/2006-DB

[Arising out of Order-in-Appeal No. 63/2006 CUS(B) dated 21/04/2006 passed by CC(Appeals), Bangalore]

CEREBRA INTEGRATED TECHNOLOGIES LTD
NO.S-5 OFF 3RD CROSS, PEENYA INDUSTRIAL AREA PEENYA 1ST STAGE, BANGALORE

Appellant(s)

Versus

Commissioner of Customs BANGALORE-CUS
NULL C.R. BUILDING,QUEENS ROAD, P.B.NO. 5400, BANGALORE - 560001 KARNATAKA

Respondent(s)

Appearance:

Shri A K LAKSHMANAN, Advocate — For the Appellant

Dr. J. Harish, Dy. Commissioner(AR) — For the Respondent

Date of Hearing: 16/08/2018
Date of Decision: 16/08/2018

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

Final Order No. 21167 / 2018

Per : S.S GARG

The appellant has filed an application under Rule 41 of the CESTAT (Procedure) Rules, 1982 praying for the recall of the Final Order dt. 18/02/2015 passed by this Tribunal ex parte without affording an opportunity of hearing to the appellant. Along with the application, appellant has also filed an affidavit of Shri V. Ranganathan, Managing Director, who has stated in the affidavit that the Final Order No.20294/2015 dt. 18/02/2015 was passed by the Tribunal without hearing the appellant and on that date, nobody appeared for the appellant as the appellant was not having any notice for the said date of hearing and therefore could not present when the matter was taken up for hearing. In support of his submission, he relied upon the judgment of the Hon'ble Supreme Court in the case of J.K. Synthetics Ltd. Vs. CCE [1996(6) SCC 92] wherein the Hon'ble Supreme Court has held that the Tribunal had jurisdiction under Rule 41 of CESTAT (Procedure) Rules, 1982 to recall the order passed ex parte and without hearing the appellant, if sufficient cause is shown for non-appearance when the appeal is taken up for hearing to meet the ends of justice. By relying upon the judgment of the apex court, we restore the appeal to its original number and after restoring the same, with the consent of both the parties, we proceed to hear the appeal itself on merits as the case pertains to the year 2006.

2. The brief facts of the case are that the appellant is a manufacturer of computers and computer based systems. They obtained EPCG Licence No.0730000153/2/11/00 dt. 03/10/2000 issued by the Jt. Director General of Foreign Trade, Bangalore in terms of EXIM Policy 1997-2002 for import of capital goods worth Rs.1,91,11,252/- and as per the conditions of the EPCG licence, the appellants were under obligation to export computer related systems, parts and accessories worth

Rs.9,80,45,990/- i.e. 5 times the CIF value of the imported goods. Further in terms of the Notification No.49/2000 dt. 27/04/2000, the appellant was required to fulfill the export obligation but the appellant failed to fulfill the said obligation.

3. The learned counsel for the appellant today submitted that the appellant has not complied with the export obligation of the 3rd block as on date though the extension was granted by the Assistant Director General of Foreign Trade as per his letter dt. 16/06/2010. The learned AR for the Revenue submitted that it is a fact that till date the appellant has failed to fulfill the export obligation in spite of extension of time given to them and therefore, the appellant has no case on merits.

4. After hearing both sides and perusal of the material on record and the fact that till date, export obligation has not been fulfilled as per the Notification No.49/2000 dt. 27/04/2000, therefore we do not find any reason to interfere in the impugned order. Consequently, we uphold the impugned order by dismissing the appeal of the appellant, on merit.

(Operative portion of the Order was pronounced
in Open Court on **16/08/2018**)

P. ANJANI KUMAR	**S.S GARG**
TECHNICAL MEMBER	**JUDICIAL MEMBER**

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