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

Application(s) Involved:

C/COD/20547/2018, C/COD/20550/2018
in
C/20950/2018-SM, C/20954/2018-SM

Appeal(s) Involved:

C/20950/2018-SM, C/20954/2018-SM

[Arising out of Order-in-Appeal No. CAL-EXCUS-000-APP-007-009-2018 dated 25/01/2018 passed by Commissioner of CUSTOMS , COCHIN(Appeal)]

Anas
Parath House Nallakam Po
CALICUT - 27
KERALA

Appellant(s)

Mohammed Farook
Representative Manning China Ltd New No 15
Sardar Jang Garden 3rd Street Royapettah
CHENNAI - 600014
TAMIL NADU

Appellant(s)

Versus

Commissioner Of Central Tax & Central Excise, Cochin
C.R. Buildings, I.S Press Road
Cochin - 682018
Kerala

Respondent(s)

Appearance:

Shri A.K JAYARAJ, Advocate
NO-217, 2ND FLOOR, THAMBU CHETTY ST,
CHENNAI - 600001
TAMILNADU

For the Appellant

Smt. Kavitha Podwal, Superintendent(AR)

For the Respondent

Date of Hearing: 19/07/2018
Date of Decision: 19/07/2018

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

Final Order No. 20971-20972 / 2018

Per : P. ANJANI KUMAR

The learned counsel for the appellants contended that the order was dated 25/01/2018 and they have received it on 25/02/2018. However they did not maintain the proof of receipt of the same. Looking into the normal time of dispatch and receipt of the orders, order could have reached them earliest in the first week of February. Even assuming the same, there will be a delay of around 12 days. The learned counsel has also submitted that the issue is in a limited compass and has requested that the matter be heard and fine and penalty be reduced suitably. He has submitted in his favour another Order-in-Original No.10/2016-17 passed by the same Additional Commissioner in which for a value of goods involving around Rs.85 lakhs, redemption fine of Rs.3 lakhs and penalty of Rs.1 lakh was imposed. He submitted that they would like to reexport the goods as permitted by the original authority and as they are incurring huge demurrage charges, redemption fine and penalty may be reduced.

2. The learned AR has submitted that the demanded fine and penalty had already been paid and hence reduction at this stage may not be of any help to the appellants.

3. Heard both sides.

4. I find that both the impugned orders and the orders submitted by the appellant are followers of inputs or intelligence received from DRI.

The Additional Commissioner in the Order No.10/2016-17 has imposed a fine of Rs.3 lakhs involving goods valued around Rs.85 lakhs whereas in the impugned order, fine of Rs.7 lakhs has been imposed for the goods worth around Rs.1 crores. Learned counsel for the appellant submitted that he is not making a plea for reduction of penalty in respect of the appellant Mr.Anas. Looking into the circumstances, I find that both cases have occurred more or less during the same time and therefore the rationale for imposing differential fine and penalty is not accepted. Therefore I find a reasonable case has been made by the counsel for reduction of redemption fine as well as penalty. Accordingly, I find that the same may be reduced.

5. In view of the above, the redemption fine is reduced from Rs.7 lakhs to Rs.4 lakhs (Rupees four lakhs only) and penalty on M/s. Manning China Ltd. is reduced to Rs.2 lakhs (Rupees two lakhs only). There is no order as to penalties on other persons. Appeal No.C/20954/2018 is partially allowed. Appeal No.C/20950/2018 is dismissed.

(Order was pronounced and dictated
in Open Court on **19/07/2018**)

P. ANJANI KUMAR
TECHNICAL MEMBER

Raja...