CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL BANGALORE

REGIONAL BENCH - COURT NO. 2

Customs Appeal No. 20719 of 2023

(Arising out of Order-in-Appeal No.104/2023 dated 28.06.2023 passed by the Commissioner of Customs (Appeals), Bangalore.)

Commissioner of Customs (Appeals),
City Customs Commissionerate,
C.R. Building, Queen's Road,
P.B. No. 5400,
Bengaluru – 560 001. ....**Appellant(s)**

VERSUS

M/s. Velankani Information Systems,
Velankani Tech Park, B43,
Hewlett Packard Avenue
Electronics City Phase – I, Electronic City,
Bengaluru – 560 100. ....**Respondent(s)**

APPEARANCE:

Mr. M. Sreekanth, Assistant Commissioner (AR) for the Appellant.

Mr. Abhishek. M, Advocate for the Respondent.

CORAM:
HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)
HON'BLE MR. PULLELA NAGESWARA RAO, MEMBER (TECHNICAL)

Final Order No. 20995 /2026

Date of Hearing: 12.02.2026
Date of Decision: 12.02.2026

PER: P.A. AUGUSTIAN

The issue in the present appeal is whether the duty is payable on the goods which is held liable for confiscation but allowed to redeem for re-export. The present appeal is filed by the Revenue aggrieved by the Order-in-Appeal No. 104/2023 dated 28.06.2023 passed by the Commissioner (Appeals), Bangalore.

2. When the appeal came up for hearing, Learned Authorized Representative (AR) reiterated the grounds of appeal and submits that since the issue is settled as per the Final Order No.20372/2024 dated 02.05.2024, the issue is no more res integra.

3. Learned Counsel for the Respondent submits that the present appeal filed by the Revenue is infructuous as the same issue was considered by this Tribunal when an appeal was filed by the respondent and it was allowed by setting aside the redemption fine and penalty as per Customs Appeal No. 20600/2023.

4. Heard both sides. We find that while considering the issue, this Tribunal disposed the appeal filed by respondent with following observation:-

> 9. The issue in the present appeal is limited to illegality in clearance of bonded warehouse goods within the stipulated period of time. As per the impugned order, it is evident that the appellant made a request for extension of period and pleaded that there is no willful negligence on the part of appellant to clear the goods during the warehousing period and it is only due to the COVID-19 situation. As per the Circular issued by the Board circular 3/2003 dated 14.01.2003;
>
>> "I am directed to refer to the instructions contained in Board's Circular No. 47/2022-Cus., Dated 29-07-2002 [2002 (144) E.L.T.T26], on the above subject and to say that some references have been received in the recent past seeking Board's clarification whether the goods imported and bonded in a warehouse can be permitted to be cleared for the purpose of export under Section 69 of the Customs Act, 1962 even though demand notices under Section 72 of the Customs Act, 1962 have been issued by the Customs Authority demanding duty, interest and other charges upon expiry of the initial or extended period warehousing.
>>
>> 2. The matter has been examined in the Board. It has been decided that in case an importer makes a request to permit

> re-export of the goods under Section 69 of the Customs Act, 1962, such a request may be allowed even if the permitted period for bonding has expired and demand notice has been issued, or it has been decided to put the goods under auction. Before permitting re-export in each such case, however, it will be necessary to extend the period of warehousing under Section 61 of the Customs Act to enable the importer to export the goods within the permitted period of warehousing.
>
> 3. Chief Commissioners are, therefore, requested to consider/decide such requests from the importers keeping in view the aforesaid guidelines of the Board and also taking into consideration all the relevant rules/regulations for export.
>
> 4. The contents of this Circular may be suitably brought to the notice of the field formations and the Trade under your jurisdictions.
>
> 5. This issues in partial modification of Board's earlier Circular under reference.

10. From the above Circular and considering the ratio of the judgment of Hon'ble Supreme Court in Cognizance for extension of Limitation (Supra), when a request is made especially in a situation like COVID-19 and where there is no allegation of any fraud of willful omission on the part of importer, the respondent ought to have allowed re-export of goods without insisting for payment of duty, interest and without imposing fine and penalty.

11. In the facts and circumstances of the case, the appeal is allowed and the impugned order is set aside. The respondent is directed to allow re-export of goods within a period of 3(three) months from the receipt of the Final Order without insisting for payment of duty, interest, fine and penalty".

5. Considering the above order, since this Tribunal allowed re-export of the goods without insisting for payment of duty, interest, fine and penalty, without going into the question of law as canvased by the Revenue, appeal is disposed as infructuous.

(Operative portion of the order was pronounced in open court on conclusion of hearing.)

(P. A. AUGUSTIAN)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

Sasi/hr