CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Appeal(s) Involved:

C/21301/2017-SM

[Arising out of Order-in-Appeal No. 30/2017 dated 02/06/2017 passed by Commissioner of CUSTOMS , COCHIN(Appeal)]

M/s Universal Oleoresins
Viii/946,navaratna House, jawahar Road
Cochin
COCHIN - 682002
KERALA

Appellant(s)

VERSUS

Commissioner of Customs Cochin-cus
CUSTOM HOUSE, WILLINGDON ISLAND
COCHIN - 682009
KERALA

Respondent(s)

Appearance:

Mr. M BALAGOPAL ADVOCATE & CONSULTANT
#A5, HIG AVENUE, GANDHI
NAGAR ROAD, KADAVANTHARA COCHIN
COCHIN - 682020
KERALA

For the Appellant

MRS. KAVITA PODWAL, SUPERINTENDENT, AR

For the Respondent

CORAM:
HON'BLE MR. S.S GARG, JUDICIAL MEMBER

Final Order No. 20627 / 2019

Date of Hearing: 08/08/2019
Date of Decision: 08/08/2019

Per : S.S GARG

The present appeal is directed against the impugned order dated 02.06.2017 passed by the Commissioner (Appeals) whereby the Commissioner (Appeals) rejected the appeal of the appellant.

2. Briefly the facts of the present case are that the appellants holder of IEC No.1080001459 were issued Advance Authorization No.1010035409/25.09.2009 by the JDGFT, Cochin under Notification No.96/2009 dated 11.09.2009 for duty free import of 20,000 kgs of Light Black Pepper. As per the additional condition sheet attached to the said authorization, the appellant was obliged to export the Black Pepper Oil and Black Pepper Oleoresins as per the export list within 120 days from the date of clearance of each import consignment. The appellant cleared 20,000 kgs Light Black Pepper Berries vide Bill of Entry No.258430/28.11.2009 against the said Authorization. The total CIF value of the goods was Rs.29,14,862.50/- and corresponding duty foregone was Rs.23,25,298/- and the export obligation period was over by 28.03.2010. As the appellant failed to produce the Export Obligation Discharge Certificate (EODC), the original authority vide Order No.07/2017 dated 07.02.2017 confirmed the demand of duty amounting to Rs.23,25,298/- along with applicable interest. Aggrieved by the said order, the appellant filed appeal before the Commissioner who rejected the said appeal. Hence, the present appeal.

3. Heard both the parties and perused the records.

4. Learned Counsel for the appellants submitted that the impugned order is not sustainable in law as the same has been passed without properly appreciating the facts and the law. He further submitted that the appellants have fulfilled the export obligation as per the Advance Authorization No.10100035409/25.09.2009 issued by the JDGFT, Cochin under Notification No.96/2009 dated 11.09.2009. He further submitted earlier that the appellant could not receive the EODC certificate from the DGFT and therefore he could not produce the same at the time of filing the appeal. He further submitted that now the EODC certificate has been issued and the same is produced which clearly certifies that the appellant has fulfilled the export obligation as required under the Advance Authorization.

5. On the other hand, Learned AR does not dispute the EODC certificate.

6. After considering the submissions of both the parties and perusal of the material on record, I find that the impugned order was passed only on account of non-submission of the EODC certificate. The said EODC certificate has now been produced before me by the appellant which certifies that the appellant has fulfilled the export obligation as required under the Advance Authorization dated 25.09.2009 issued by the JDGFT. In view of the EODC certificate produced by the appellant certifying the fulfillment of export obligation, I am of the considered view that the impugned order is not sustainable in law and therefore, I set aside the same by allowing the appeal of the appellant.

(Operative portion of the Order was pronounced
in Open Court on **08/08/2019**)

S.S GARG
JUDICIAL MEMBER

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