CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO.

Application(s) Involved:

C/Early Hearing/21280/2018, C/Early Hearing/21281/2018, C/Early Hearing/21282/2018 in C/23161/2014-DB, C/23162/2014-DB, C/23163/2014-DB

Appeal(s) Involved:

C/23161/2014-DB, C/23162/2014-DB, C/23163/2014-DB

[Arising out of Order-in-Appeal Nos. 56 to 58/2010 dated 17/06/2010 passed by the Commissioner of Customs, Cochin (Appeals)]

Pointec Writing Instruments Pvt. Ltd.
26-A, Attibele Industrial Area, Attibele
Bangalore – 562 107
Karnataka

Appellant(s)

VERSUS

Commissioner of Customs Cochin
Custom House, Willingdon Island
Cochin – 682 009
Kerala

Respondent(s)

Appearance:

Mr. N. Anand, Advocate — For the Appellant

Mr. K.B. Nanaiah, Asst. Commr. (AR) — For the Respondent

CORAM:

HON'BLE MR. S.S GARG, JUDICIAL MEMBER
HON'BLE MR. P.V. SUBBA RAO, TECHNICAL MEMBER

Final Order Nos. 20668 - 20670 / 2019

Date of Hearing: 21/08/2019
Date of Decision: 21/08/2019

Per: S.S GARG

For the reasons stated in the early hearing applications, we allow the early hearing applications.

2. Appellants have filed these three appeals against the common impugned order dated 17.06.2010 passed by the Commissioner of Customs (Appeals) whereby the Commissioner has rejected the appeal of the appellant and confirmed the Order-in-Original. Since the issue involved in all the three appeals is identical and there is a common impugned order, therefore with the consent of both the parties, we proceed to decide appeals itself by this common order.

3. Briefly the facts of the present case are that the appellants were issued Advance License No. 0710020496 dated 09.04.2003 by the JDGFT, Bangalore for importing packing material viz., display boxes and corrugated boxes. Appellant imported the goods as specified in the Licence vide Bills of Entry Nos. 1066 dtd. 28.04.2003, 1260 dtd. 03.06.2003 and against Release Advice No. 2741 dtd. 9.9.2004. The total duty foregone was Rs. 8,97,746/- (Rupees Eight Lakhs Ninety Seven Thousand Seven Hundred and Forty Six only) for which the appellant executed the bond with the Deputy Commissioner. Thereafter a show-cause notice dated 06.07.2006 was issued on the ground that the export obligation period has expired and the appellants have failed to produce evidence for discharge of export obligation even during the extended time given to them and therefore they have violated the conditions of the exemption Notification No.

43/2002 dated 19.04.2002. After following the due process, Assistant Commissioner confirmed the duty demand of Rs. 8,97,746/- (Rupees Eight Lakhs Ninety Seven Thousand Seven Hundred and Forty Six only) with interest @15%. Aggrieved by the said order, appellant filed appeal before the Commissioner who rejected the appeals.

4. Heard both sides and perused the case records.

5. Learned counsel for the appellant 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 demand has been confirmed in the impugned order passed by the Commissioner only on the ground that the appellant has failed to produce EODC certificate. He further submitted that the appellant has in fact fulfilled the export obligation stipulated under the Advance Licence in full well within the time limit but there was a delay in procuring the EODC certificate from JDGFT. He further submitted that subsequently appellant has obtained EODC certificate dated 01.07.2014 in respect of the said Advance Licence which clearly establishes that they have fulfilled the export obligation in full and consequently has not violated the conditions of the Notification No. 43/2002.

6. On the other hand the learned AR defended the impugned order.

7. After considering the submissions of both the parties and perusal of the material on record, we find that appellant has fulfilled the export obligation and has also produced the written letter dated 01.07.2014 in respect of the said Advance Licence which clearly proves that he has fulfilled the export obligation. Since the only ground on which the demand was confirmed was non-submission of EODC and the same

has now been submitted by the appellant showing that he has fulfilled the export obligation within the time. In view of this redemption letter dated 01.07.2014 produced on record, we are of the considered view that the impugned order is not sustainable in law and therefore the same is set aside by allowing all the appeals of the appellant.

(Operative portion of the Order was pronounced
in Open Court on **21/08/2019**)

(P.V. SUBBA RAO)
TECHNICAL MEMBER

(S.S GARG)
JUDICIAL MEMBER

iss...

...