CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 21 of 2012

[Arising out of OIA No.28/CUS/APPL/DLH-IV/2011 dated 18.10.2011 passed by the Commissioner (Appeals), Central Excise, Delhi-IV, Faridabad]

M/s Om Drishian International Limited ......Appellant
58, SSI, Industrial Estate, G.T Karnal Road,
Delhi-110033

VERSUS

The Commissioner of Customs and ......Respondent
Central Excise, Delhi-IV
New CGO Complex, NH-IV, Faridabad,
Haryana- 121001

APPEARANCE:

Shri Ashirwad and Shri Virat Sharma, Advocate for the Appellant

Shri Aniram Meena and Shri Ravinder Jangu, Authorized Representatives for the Respondent

CORAM: HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO.60075/2025

DATE OF HEARING: 15.01.2025
DATE OF DECISION: 15.01.2025

SOMESH ARORA:

The short issue involved in this case is whether, in the facts of the case, there was an attempt to export or export is involved or not? The party in this case filed a shipping bill stating the goods to be Long Viscose Scarves. The shipping bill was filed on 25.04.2011. On 29.04.2011, before the Let Export Order (LEO) could be granted, the party itself wrote a letter to the Customs Authorities stating that they are withdrawing their consignment lying at the port as the order stands cancelled. The Department does not dispute that this letter was available with them on record on the date the Show Cause Notice was issued or during adjudication. Vide impugned order, penalties of Rs.2,00,000/- under Section 114 and Rs.1,00,000/- under Section 114AA were imposed on the party on the premise that there was either an export or an attempt to export, the goods which were mis-declared as the Scarves were not of the nature or value which were declared. The party pleaded that there was no attempt to export which is evident as they have withdrawn the consignment even before it could be processed for the Let Export Order and there is no document evidencing that export has been cleared by the Department, as per records.

2. We have considered the adversarial submissions, including the facts and the circumstances of the case. We are of the view that neither the export was done, nor an attempt was completed as the Department had the letter of withdrawal with it. As the export did not take place, nor any Let Export Order given, similarly there was no attempt to export. Export was aborted by the party itself who wrote the letter and informed the Customs Authorities, thus there cannot be considered an attempt present. As Department in the face of such withdrawal would not have cleared the goods for export.

3. In view of the facts and circumstances of this case, we find that there is no violation involved as neither there is an export nor is any attempt to export was made.

4. In view of the above said position, the order of the lower authority is set aside. Accordingly, the appeal is allowed with consequential relief, if any, as per law.

(Dictated and pronounced in the open court)

(SOMESH ARORA)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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