IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI

Appeal No. C/115/2012

(Arising out of Order-in-Appeal C.Cus. No.188/2012 dated 27.3.2012 passed by the Commissioner of Customs (Appeals), Chennai)

M/s. Subam Traders Appellant

Vs.

Commissioner of Customs, Import, Chennai Respondent

Appearance

Shri R. Balagopal, Consultant for the Appellant
Shri K. Veerabhadra Reddy, JC (AR) for the Respondent

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing / Decision: **13.04.2018**

Final Order No. **41115 / 2018**

Per Bench

The appellant filed Bill of Entry dated 9.7.2009 through their CHA for clearance of goods declared as 54.54 MTs heavy melting scrap. The goods were examined and found to be re-rollable steel scrap and further appellant had not produced PSI certificate at the time of examination. The re-rollable scrap attracts 5% BCD under Notification No. 21/2002 S.No. 190B, whereas heavy melting scrap attracts nil BCD. The department was of the view that the appellant / importer had mis-declared the goods to evade payment of customs duty. The imports being without PSI certificate was also contrary to the provisions of Foreign Trade (Development and Regulation) Act, 1992. Show cause notice was issued proposing for confiscation and for imposing penalties. After due process of law, the original authority ordered confiscation of the goods and allowed redemption on payment of fine of Rs. 3 lakhs and imposed penalty of Rs.2 lakhs under section 112(a) of the Customs Act, 1962. In appeal, Commissioner (Appeals) reduced the penalty to Rs.50,000/- without interfering in the confiscation of goods or the redemption fine imposed. Aggrieved, the appellant is now before the Tribunal.

2. On behalf of the appellant, ld. consultant Sh. R. Balagopal submitted that the appellant is not contesting the confiscation but pleads to take a lenient view with regard to redemption fine and penalty imposed. He submitted that the duty sought to be allegedly evaded by the appellant is only to the tune of Rs.63,000/-, the redemption fine imposed to the tune of Rs.3 lakhs is highly excessive and also the penalty.

3. The ld. AR Shri K. Veerabhadra Reddy reiterated the findings in the impugned order. He stressed that the appellant had not only mis-declared the goods but has also not furnished the valid PSI certificate.

4. Heard both sides.

5. We have heard the submissions made by both sides and perused the appeal records. The appellant is contesting only the redemption fine and penalty imposed. It is seen from the records that the appellant had misdeclared the goods as heavy melting scrap. However, the quantum of duty that would have been payable in case the goods are described as re-rollable scrap is only Rs.63,000/-. Further, it is submitted that the appellant is a first importer. Taking these aspects into consideration, we are of the considered opinion that the redemption fine can be reduced from Rs.3,00,000/- to Rs.1,00,000/- (Rupees one lakh only). The penalty imposed is sustained as we do not find any grounds to interfere with the penalty as the Commissioner (Appeals) has reduced the penalty to Rs.50,000/-.

6. In the result, the impugned order is modified to the extent of reducing the redemption fine to Rs.1,00,000/- only. The appeal is partly allowed in the above terms.

(Operative portion of the order was pronounced in open court)

(**Madhu Mohan Damodhar**)
Member (Technical)

(**Sulekha Beevi C.S.**)
Member (Judicial)

Rex