CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL CHENNAI

REGIONAL BENCH – COURT NO. III

Customs Appeal No. 40877 of 2015
(Arising out of Order-in-Appeal C.Cus.II No.204/2015 dt. 27.02.2015 passed by Commissioner of Customs (Appeals-II), Chennai]

M/s.Komal Polymers Industries Pvt. Ltd. **Appellant**
No.24, Narayana Mudali Street, Sowcarpet
Chennai 600 079

VERSUS

Commissioner of Customs (Sea)
Chennai – 600 001 **Respondent**

APPEARANCE :

Shri S. Siva Sankar, Advocate
For the Appellant

Shri K. Veerabhadra Reddy, ADC (AR)
For the Respondent

CORAM :

HON'BLE MS. SULEKHA BEEVI, C.S., MEMBER (JUDICIAL)
HON'BLE MR. P.VENKATA SUBBA RAO, MEMBER(TECHNICAL)

DATE OF HEARING : 14.06.2019
DATE OF DECISION : 14.06.2019

FINAL ORDER No. 40843 / 2019

PER SULEKHA BEEVI

The above appeal has been filed against the order passed by Commissioner (Appeals) who upheld the order of original authority rejecting the refund claim of S.A.D under Notification No.102/2007-Cus.

2. On behalf of the appellant, Ld. Counsel Shri S. Siva Shankar submitted that the original authority had rejected the refund claim for the reason that the appellant had not produced the correlation

certificate as required under condition 2 (d) and 2 (e) (iii) of Notification No.102/207-Cus. The original authority had issued a deficiency memo informing the appellant to produce the documents within 10 days month. Appellant could not decipher the time limit prescribed by the adjudicating authority. For this reason, they did not produce the document within time. In appeal, though the appellant produced the documents but the same was not considered by the Commissioner (Appeals). He requested further chance to produce the documents.

3. Ld. A.R Shri K. Veerabhadra Reddy supported the findings in the impugned order. He argued that appellant has been given sufficient time prescribed in the order.

4. Heard both sides.

5. The refund has been rejected for the reason that appellant has not produced the required documents. Though the deficiency memo was issued to the appellant the time limit directed in the deficiency memo is noted as 10 days month. The time limit prescribed in the memo is not sufficiently clear. However, in the interest of justice, we are of the considered opinion that the appellant can be given a further chance to produce the documents. The matter is remanded to the refund sanctioning authority who shall give a reasonable time to the appellant to produce the documents. Impugned order is set aside. Appeal is allowed by way of remand on the above terms.

(dictated and pronounced in court)

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

(P.Venkata Subba Rao)
Member (Technical)

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