IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, CHENNAI

REGIONAL BENCH - COURT NO. – III

Customs Appeal No. 560 of 2005

(Arising out of Order-in-Original No. 3960/2005 dated 31.5.2005 passed by the Commissioner of Customs (Exports), Chennai)

Y.K. Anand **Appellant**
Proprietor
M/s. Anand Paints and Hardwares Stores
No. D4/11 & 12, Jwalaheri Paschim Vihar
New Delhi – 110 063.

Vs.

Commissioner of Customs (Exports) **Respondent**
Customs House
No. 60, Rajaji Salai
Chennai – 600 001.

APPEARANCE:

Shri S. Venkatachalam, Advocate for the Appellant
Shri Arul C. Durairaj, Superintendent (AR) for the Respondent

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri P. Anjani Kumar, Member (Technical)

Final Order No. **41386 / 2019**

Date of Hearing: 21.11.2019
Date of Decision: 21.11.2019

Per Ms. Sulekha Beevi C.S.

Brief facts are that M/s. Model Steels Pvt. Ltd. had imported non-alloy steel melting scrap directly and also by way of purchase from high seas seller by availing concessional rate of duty in terms of Customs Notification No. 16/2000-Cus. dated 1.3.2000 (Sl. No. 153 and condition No. 16), 17/2001-Cus. dated 1.3.2001 (Sl. No. 181 and Condition No. 18) and 21/2002-Cus. dated 1.3.2002 (Sl. No. 200 and

Condition No. 20). It was noticed that instead of utilizing the scrap so imported in the factory premises as prescribed in the exemption notification, they sold away scrap in the open market in Chennai with the help of high seas sellers / scrap brokers and thus violated the conditions in the notifications. On search, it was found that the physical stock of imported scrap available in the factory premises of M/s. Model Steels Pvt. Ltd. was much less than the quantity recorded in their books. Search operations were conducted in the premises of M/s. Model Steels Pvt. Ltd. as well as others to whom Show Cause Notices were issued. The appellant who is engaged in trading and import and export of various goods had sold heavy melting scrap to M/s. Model Steels Pvt. Ltd. on high seas sale basis. The appellant was also issued Show Cause Notice pursuant to the investigations. The original authority after due process of law imposed penalty on the appellant. Hence this appeal.

2. Today, when the matter came up for hearing, ld. counsel Shri S. Venkatachalam submitted that the appeal filed by the main appellant M/s. Model Steels Pvt. Ltd. has been remanded as per Final Order No. 1013 and 1014/2007 dated 13.8.2007. Further, by Final Order Nos. 1183 to 1203/2007 dated 21.9.2007, the appeals field by the other co-noticees were also remanded for readjudication. He prayed that the present appeal may also be remanded to be considered along with other appeals by the original authority.

3. The ld. AR Shri Arul C. Durairaj appeared for the respondent.

4. Heard both sides.

5. After taking into consideration the submissions made by the ld. counsel on behalf of the appellant and on perusal of the final orders mentioned by him, we find that the appeal filed by the main appellant as well as other co-noticees has been remanded by the Tribunal for readjudication. Consequently, following the said decisions, we remand the present appeal also. The impugned order is set aside and the appeal filed by the appellant is remanded to the adjudicating authority for denovo consideration.

(Dictated and pronounced in open court)

(**SULEKHA BEEVI C.S.**)
Member (Judicial)

(**P. ANJANI KUMAR**)
Member (Technical)

Rex