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

REGIONAL BENCH - COURT NO. – III

Customs Appeal No. 41617 of 2016

(Arising out of Order-in-Appeal C.Cus. No.211/2016 dated 31.03.2016 passed by the Commissioner of Customs (Appeals-I), Chennai)

Rashtriya Ispat Nigam Ltd. **Appellant**
Customs Appeal Cell, Room No.54-A, "D" Block
ETC Department, Project Office Complex,
Visakhapatnam Steel Plant,
Visakhapatnam 530 031.

Vs.

Commissioner of Customs, (Chennai-VII) **Respondent**
New Custom House, meenambakkam,
Chennai 600 027.

APPEARANCE:

Shri R. Parthasarathy, Advocate for the Appellant
Shri L. Nandakumar, AC (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. 40575 / 2021

Date of Hearing: 13.01.2021
Date of Decision: 13.01.2021

PER : Sulekha Beevi C.S

The appellant is engaged in manufacture of iron and steel products at their factory in Visakhapatnam. During the year 2016, the appellants imported certain capital goods. They also imported consignment with regard to design and drawings through Chennai

Airport. There was an issue with regard to classification of goods and the assessing officer assessed the goods to be classified under CTH 98010019 provisionally. The appellant lodged a protest against this provisional assessment and also paid duty. However, no speaking order was issued. The appellants thereafter preferred an appeal before the Commissioner (Appeals) against such order passed with regard to classification of goods imported. The Commissioner (Appeals) vide order impugned herein dismissed the appeal observing that appeal is premature since the order challenged is a provisional assessment.

2. Today when the matter came up for hearing Ld. Counsel Shri R.Parhasarathy submitted that the appeal has been dismissed only for the reason that order challenged is only a provisional assessment. He relied upon the decisions - (i) *Asian Paints Ltd. Vs CCE Meerut - 1998 (102) ELT 240 (T)* (ii) *Merino Panel Products Ltd. Vs CC New Delhi - 2003 (153) ELT 128 (Tri.-Del.)* (iii) *CC Mangalore Vs ELF Gas India Ltd. - 2006 (206) ELT 1059 (Tri.-Bang.),* to contend that appeal is maintainable. It is requested by him that the appeal may be allowed and the mater may be remanded to the original authority.

3. Ld.A.R Shri L. Nandakumar reiterated the findings in the impugned order. However he fairly admitted that an appeal is maintainable against the provisional assessment. He also conceded to the remand of the matter for finalising the assessment.

4. After hearing both sides, we hold that rejection of appeal by the Commissioner (Appeals) holding that it is an appeal against

provisional assessment is against the settled positions of law. Hence the impugned order is set aside. Appeal is allowed and the matter is remanded to the adjudicating authority for finalising the assessment as expeditiously as possible.

(dictated and pronounced in open court)

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

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

gs