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

REGIONAL BENCH - COURT NO. – III

CUSTOMS APPEAL No. 40396 of 2020

[Arising out of Order-in-Appeal Air Cargo C.Cus. I No.134/2020 dt. 02.06.2020 passed by Commissioner of Customs (Appeals-I), Chennai]

Commissioner of Customs, **Appellant**
Chennai-VII Commissionerate,
New Custom House,
Meenambakkam
Chennai 600 027.

Vs.

M/s.Kamdar Global Solutions Pvt.Ltd. **Respondent**
No.15, EVK Sampath Road,
Vepery,
Chennai 600 007.

APPEARANCE:

Shri S. Balakumar, AC (AR) for the Appellant
None for the Respondent

CORAM :

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)

Date of Hearing: 24.03.2021
Date of Decision:24.03.2021

FINAL ORDER No. 41405 / 2021

Brief facts of the case are that M/s.Kamdar Global Solutions Pvt.Ltd. imported 5 nos. of Thermo Drones and 5 nos. of Thermal batteries vide Bill of Entry dated 02.05.2020. The said drones were meant for supply to Commissioner of Police, Chennai for use during the pandemic (COVID-19) for monitoring the people / public during lockdown period. The said goods, according to the department, require a licence as per DGFT Notification No.30/2015-2020 dated 8.11.1990 and WPC licence for the drones. The clearance of the goods was denied based upon this notification and requirement of licence. The original authority thus denied release of the goods and imposed personal penalty of Rs.50,000/- under Section112 (a) of Customs Act, 1962. Aggrieved by this order, an appeal was filed by the appellant before the Commissioner (Appeals) who vide the order impugned herein ordered for release of goods under bond directing to produce the necessary licence and permission from the appropriate authorities within a period of six months from the date of release of the goods. Aggrieved by such order, the Revenue is now before the Tribunal.

2. Ld. A.R Shri S. Balakumar appeared and argued for the department. He reiterated the grounds of appeal. It is submitted by him that since there is no licence as required under the notification for import of the goods, the Commissioner (Appeals) ought not to have released the goods.

3. On behalf of the respondents, there was no appearance. However, the matter is taken up for disposal after hearing the Ld.A.R and on perusal of records.

4. It is noted that the goods were specifically imported for meeting the requirements during the pandemic. Drones were intended to be used for monitoring the public as to whether

there is violation of the restrictions for travel and gathering of people. It is also seen from the documents that drones were intended for supply only for the police department and only for the purpose of use during the pandemic. The department has issued an end-user certificate dt. 22.05.2020 in which it is stated that such drones are intended to monitor the COVID-19 situation in Chennai city. Needless to say that from 22.03.2020 onwards the country was in lock down for a period upto May 2020. A letter dt.18.05.2020 is seen to have been produced by the importer. It is a letter from the Commissioner of Police to the Commissioner of Customs (Air Cargo) explaining that it was the decision of Police Department to procure the thermal drones for surveillance of physical movement of people in Greater Chennai Police jurisdiction so as to contain the spread of COVID-19 . When the goods are imported / intended for use by the government for the public purpose and especially when there is worldwide pandemic of COVID-19, the departmental authorities ought to have viewed the same in the right perspective. So also, no purpose would serve by release of the goods after prolonged delay. In fact, I am of the view that Commissioner (Appeals) has taken a correct view after applying his mind so as to release the goods for immediate use so that the pandemic can be contained and lives of many can be saved. The act of adjudication is not an automatic or mechanical application of the provisions of law. It requires application of mind taking into consideration the facts and circumstances of each case. Commissioner (Appeals) has rightly ordered for release of the goods. I do not find any grounds to interfere in the said order. The appeal filed by the department is dismissed.

(Dictated and pronounced in open Court)

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

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