CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL CHENNAI

REGIONAL BENCH – COURT NO. IV

Customs Appeal No.40243 of 2020

(Arising out of Order-in-Appeal No.05/2020-TTN(CUS), dated 19.02.2020 passed by Commissioner of Customs & Central Excise (Appeals), Tiruchirapalli)

M/s. V.N.M.A.D Firm, **Appellant**
No.2, Malayappa Pillai Lane,
Thoothukudi 628 001.

VERSUS

Commissioner of Customs, **Respondent**
Customs House,
New Harbour Estate,
Tuticorin 628 004.

APPEARANCE :

Shri A.K. Jayaraj, Advocate for the Appellant
Shri M. Jagan Babu, Authorized Representative for the Respondent

CORAM : HON'BLE Ms. Sulekha Beevi C.S, MEMBER (JUDICIAL)

Date of Hearing : 26.03.2021
Date of Decision : 26.03.2021

FINAL ORDER No. 41448 / 2021

Brief facts are that the appellant imported Yellow Gram from Tanzania under the Bill of Entry dated 07.09.2019. The goods were detained as per the report given by the Food Safety and Standard Act, 2006, and Rules and Regulations, said that the goods are not fit for human consumption. The original authority directed for re-export of the goods and imposed redemption fine of Rs.3 lakhs for re-export and penalty of Rs.1 lakh under section 112(a) of the Customs Act, 1962. Against this, appeal was preferred before Commissioner (Appeals), who reduced the redemption fine from Rs.3 lakhs to Rs.2 lakhs but however, did not interfere with the penalty. Hence this appeal.

2. On behalf of the appellant, learned counsel Shri A.K. Jayaraj appeared and argued the mater. It is submitted by him that the goods

were redeemed for the purpose of re-export and that the redemption fine imposed is illegal and requires to be set aside. He relied upon the decision in the case of M/s. Sankar Pandi *Vs Union of India* reported in *2002 (141) E.L.T.635 (Mad.)*, which was upheld by the Supreme Court in the case of as reported in *M/s. Siemens Ltd. Vs Commissioner of Customs* reported in *1999 (113) E.L.T.776 (S.C.)*. With regard to penalty, he submitted that the appellant has suffered much financial hardship as the goods having been re-exported and also demurrage charges and also expenses to re-export the goods. He prayed that the penalty may be set aside.

3. The learned Authorised Representative Shri M. Jagan Babu supported the findings in the impugned order.

4. Heard both sides.

5. It is seen that the redemption fine imposed only for the purpose of redeeming the goods for re-export. In the decision relied upon by the learned counsel in the case of *M/s. Sankar Pandi* (supra), the Hon'ble jurisdictional High Court has held that redemption fine cannot be imposed, when the goods are redeemed for re-export. Following the said decision, I am of the view that the redemption fine requires to be set aside, which I hereby to.

6. The learned counsel has argued that the appellant has suffered much financial loss due to the inability to clear the goods by way re-export. Taking note of these facts into consideration and also the appellant has incurred high demurrage charges, I am of the view that the penalty can be reduced to Rs.25,000/-. Ordered accordingly. The appeal is partly allowed by setting aside the redemption fine and reducing the penalty to Rs.25,000/- [Rupees Twenty Five Thousands only] with consequential reliefs, if any.

(Dictated and pronounced in open court)

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

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