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

Customs Appeal No.40638 of 2020

(Arising out of Order-in-Appeal No. 42/2019-TTN (CUS) dated 22.3.2019 passed by the Commissioner of Customs (Appeals), Trichy)

M/s. Jaihind Traders **Appellant**
29/621 K, Jain Tower, Vytilla
Cochin, Kerala.

Vs.

Commissioner of Customs **Respondent**
Custom House, New Harbour Estate
Tuticorin – 628004.

APPEARANCE:

Shri A.K. Jayaraj, Advocate for the Appellant
Smt. T. Sridevi, ADC (AR) for the Respondent

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

Final Order No. **41621 / 2021**

Date of Hearing: 30.06.2021
Date of Decision: 30.06.2021

The appellant is aggrieved by the confirmation of demand of late fee charges for delay in filing the bill of entry.

2. On behalf of the appellant, ld. Counsel Shri A.K. Jayaraj appeared and argued the matter. He explained that originally the import was made by M/s. Al Fursan Trading Company by filing bill of entry dated 27.8.2018. Due to the exchange rate fluctuation, they were not in a position to clear the consignment and they gave no objection to cancel the bill of entry. Later, the appellant entered into a contract with the original importer and the consignment was sold to the appellants. It was necessary to

amend the shipping bill in respect of the name of the consignee and necessary application for amendment in IGM was made. The appellants obtained the certificate of amendment on 25.10.2018. It was thereafter necessary for the appellant to obtain revised country of origin certificate and also to file the amended bill of entry. The bill of entry was thereafter filed on 14.11.2018. The department was of the view that the appellant has willfully delayed the filing of bill of entry and has imposed late fee charges from 27.8.2018 (date of filing of bill of entry by the original importer) till 14.11.2018. He adverted to the Standing Order No. 1/2017 and argued that when the delay is due to any reason which is considered bonafide by the proper officer, the same can be condoned. Although the appellant had explained the situation to the authorities below, the reasons for delay were not considered properly. He relied upon the decision of the Tribunal vide Final Order No. 40772 to 40780/2019 dated 8.5.2019 and Final Order No. 41155/2019 dated 30.9.2019 and prayed that the late fee charges may be set aside.

3. The ld. AR Smt. T. Sridevi supported the findings in the impugned order. She adverted to para 13 to 15 of the impugned order and submitted that the authorities below have held that delay is not bonafide in nature and therefore late fee charges imposed are correct and proper.

4. Heard both sides.

5. The issue is whether the appellant has been able to establish sufficient reason for delay in filing the bill of entry. From the records, it is clear that the original importer could not clear the consignment and had to sell the goods to another person. Since necessary amendments have to be made in the shipping bill which has to be filed along with necessary documents by the new purchaser, the bill of entry could be filed only on 14.11.2018. This being the facts which have been properly established by document itself, the view taken by the authorities below that the reasons are not genuine / bonafide cannot sustain. Further, the Tribunal in the decisions cited supra have analyzed similar facts and have held that the late fee imposed are not warranted. After considering the facts and also following the decisions, I am of the view that the impugned order cannot sustain. The same is set aside and the appeal is allowed with consequential relief, if any.

(Dictated in open court)

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

Rex