IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL <u>CHENNAI</u>

REGIONAL BENCH – COURT NO. I

Customs Appeal No. 40285 of 2021

(Arising out of Order-in-Appeal Seaport C.Cus.II No. 55/2021 dated 11.02.2021 passed by the Commissioner of Customs (Appeals-II), No. 60, Rajaji Salai, Custom House, Chennai – 600 001)

M/s. Hero Cycles Limited **: Appellant**
Hero Nagar, G.T. Road,
Ludhiana, Punjab – 141 003

VERSUS

The Commissioner of Customs **: Respondent**
Chennai-II Commissionerate
No. 60, Rajaji Salai, Custom House, Chennai – 600 001

<u>APPEARANCE</u>:

Shri Sudhir Malhotra, Advocate for the Appellant

Ms. K. Komathi, Authorized Representative for the Respondent

<u>CORAM</u>:

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)

FINAL ORDER NO. 41679 / 2021

DATE OF HEARING: 13.07.2021

DATE OF DECISION: 13.07.2021

Order :

The above appeal is filed by the assessee against the Order-in-Appeal Seaport C.Cus.II No. 55/2021 dated 11.02.2021 passed by the Commissioner of Customs (Appeals-II), Chennai.

2.1 At the threshold, Shri Sudhir Malhotra, Learned Advocate appearing for the appellant, *inter alia* submitted that the appellant imported bicycles, motorized cycles, bicycle parts and accessories vide Bills-of-Entry No. 9252028 dated 10.04.2017, 9427805 dated 24.04.2017 and 9473280 dated 27.04.2017 on payment of Additional Customs Duty (ACD); that the appellant filed application for refund of ACD in terms of Notification No. 102/2007-Cus. dated 14.09.2007 in respect of the above Bills-of-

Entry on 06.04.2018; that the Assistant Commissioner of Customs-Refunds vide Order-in-Original No. 72055/2019 dated 31.10.2019 ordered sanction of refund of Rs.1,21,530/- and rejected the refund claim to the extent of Rs.3,51,082/-; that the First Appellate Authority vide order impugned herein rejected their first appeal and aggrieved by the same, the assessee has preferred the present appeal before this forum.

2.2 Learned Advocate for the appellant further submitted that the Adjudicating Authority had rejected the refund on the ground that as per correlation sheet, the description in Bill-of-Entry and invoices did not tally; that the last digit in the Bill-of-Entry No. 9252028 was entered as "3" instead of "8", which was due to inadvertence and the appellant had submitted revised correlation sheet duly certified by the Chartered Accountant vide their letter dated 07.12.2019; that the First Appellate Authority erred in rejecting the appeal of the appellant without ascertaining/verifying the claim of the appellant on the letter dated 07.12.2019 from the concerned Assistant/Deputy Commissioner of Customs (Refund), etc.

2.3 He prayed for remanding the matter to the file of the Adjudicating Authority for deciding afresh after considering the submissions of the appellant.

3. Ms. K. Komathi, Learned Departmental Representative appearing for the Revenue, agreed to *de novo* adjudication by the Original Authority.

4. The mistake, as canvassed by the Learned Advocate for the appellant, appears to have been explained, but however, the same requires to be verified with the support of documentary evidences like the certificate or self-supporting letter like the one dated 07.12.2019 filed by the appellant.

5. In the light of the above and since this requires factual verification based on the documents, and also

taking into consideration the common request for remand, I set aside the impugned order and remand the matter back to the file of the Adjudicating Authority who may call for all such documents that may be required and pass an appropriate speaking order in accordance with law, after affording reasonable opportunities to the appellant. All the contentions are left open.

6. The appeal is allowed by way of remand.

(Operative part of the order pronounced in open court)

Sd/-
(P. DINESHA)
MEMBER (JUDICIAL

Sdd