IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI

C/00223/2006

[arising out of Order-in-Appeal No.C.CUS.279/2006, dated 10.04.2006 passed by the Commissioner of Customs (Appeals), Chennai]

(PORT – IMPORT)
COMMISSIONER OF CUSTOMS, CHENNAI-I APPELLANT

Versus

M/s. GOYAL ISPAT LTD. RESPONDENT

Appearance:

For the Appellant Shri B. Balamurugan, AC (AR)
For the Respondent None

CORAM:

Hon'be Smt. Sulekha Beevi C.S, Judicial Member
Hon'ble Shri V. Padmanabhan, Technical Member

Date of hearing/decision **21-06-2017**

FINAL ORDER NO. 41098/2017

Per Bench:

The appeal is filed by Revenue against Order-in-Appeal No.C.CUS.279/2006, dated 10.04.2006.

2. The issue in short is that the respondents had filed five bills of entry for warehousing vide no.447157, 447158, 447159, 447160 and 447161, all dated 11.12.2002, under DFRC Scheme claiming the benefit of Notification No.48/2000, dated 25.04.2000. The imported goods i.e., 2125.89 MTs of Non-alloy Steel Blooms were purchased from the original importer M/s. PEC Ltd., on high-sea sale basis. The goods were assessed under CTH 72071909 and CETH 720719 @ 40% + 16% + 4% without extending the benefit of DFRC notification, as the DFRC licences No.021002371, dated 11.05.2001 and

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0210025254, dated 13.08.2001 produced by the respondents were found to have expired on 30.11.2002 and 28.02.2003 respectively.

3. The benefit of the DFRC licences was not extended for the reasons that DFRC licences were issued initially to M/s. Tata Iron and Steel Co. Ltd., and were subsequently issued to the importer. The validity of such licences is to be decided with reference to the date of shipment as per Import-Export Policy. Since the licences were not transferred to the respondents on the date of shipment, the benefit was disallowed and Customs duty amounting to Rs.84,12,718/- was held liable to be paid. When the issue was agitated before Commissioner (Appeals), he passed the impugned order allowing the benefit of DFRC licences and set aside the duty demands. Aggrieved by the impugned order, Revenue has filed the present appeal.

4. With the above background, we have heard Shri B. Blalamurugan, AC (AR) on behalf of the Revenue. However, none appeared for the respondents.

5. The learned departmental representative argued that validity of the import licence is decided with reference to the date of shipment of the goods from the supplying country and not the date of arrival of the goods at the Indian port. The date of shipment as per Bill of Lading is 21.11.2002. Since the licences were procured by the respondents only subsequent to the import of the goods, it is to be held that the respondents did not have the licences at the time of import. According, he argued that duty is liable to be paid.

6. We have perused the records of this case. The learned Commissioner (Appeals) has recorded that the DFRC licences were

dated 11.05.2001 as well as 13.08.2001. The date of shipment is 21.11.2002, for which, the Bills of Entry were filed on 11.12.2002. From these dates, he has taken the view that the licences were very much valid on the date of shipment even though such licences were procured by the respondent on a date subsequent to the date of shipment. We do not find any infirmities in such a conclusion arrived by the learned Commissioner (Appeals). There is nothing on record to suggest that the date of the DFRC licences were otherwise. Further, the scheme of DFRC provides for procurement of valid licences subsequent to its issue the purposes of import by third parties. Consequently, we are of the view that the licences were valid on the date of shipment and as such cover the goods under import. In view of the above discussions, the impugned order is upheld and the appeal filed by Revenue dismissed.

(Operative part of the order pronounced
in open court on **21.06.2017**)

(V. PADMANABHAN)
TECHNICAL MEMBER

(SULEKHA BEEVI C.S)
JUDICIAL MEMBER

ksr
23-07-2016

प्रमाणित प्रति / Certified True Copy
सहायक पंजीकार / Asst. Registrar
सीमाशुल्क उत्पादशुल्क एवं सेवा कर
अपील अधिकरण / (CESTAT)
चेन्नै / Chennai

Customs, Excise & Service Tax Appellate Tribunal
सत्यमेव जयते