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

C/100/2009

(Arising out of Order-in-Original No.8712 /2009 dated 09.03.2009 passed by the Commissioner of Customs (Seaport-Import), Chennai)

M/s. Copy Tron : Appellant

Vs.

CC (Port-Import), Chennai : Respondent

Appearance

Shri A.K. Jayaraj, Advocate,
for the appellants

Shri B. Balamurugan, AC (AR)
for the Respondent.

CORAM :

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

Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing/Decision: **14.08.2017**

FINAL ORDER No. 41694 **/2017**

Per Bench

The issue in the appeal relates to the import of old used digital multifunction print and copier machines at declared price of US$ 34,695 (CIF) vide Invoice no. 0107 dated 05.12.2008. Department took the view that the impugned goods are restricted for import and required valid license for import, which was not produced by the

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importer. The value of the goods were also enhanced to GSD 148200 (C&F). In adjudication, the adjudicating authority vide impugned order dated 09.03.2009, the imported goods confiscated, under Section 111 (d) of the Customs Act, 1962, however, option was given to redeem the goods on payment of fine of Rs. 7,80,000/- under Section 125 ibid. A penalty of Rs. 3,90,000/- was imposed on the importer under Section 112 (a) of the Customs Act, 1962. Aggrieved, appellant is before this forum.

2. Today when the matter came up for hearing, the Ld. Advocate, Shri A.K. Jayaraj, submits that the issue of importability of such machines had already been finally decided by the Hon'ble High Court of Madras in the case of *CC, Tuticorin Vs. City Office Equipment* – 2014 (302) ELT 212 (Mad.), wherein interalia, it was held that there is no restriction on free import of second hand digital multifunction print and copier machines. He further submits that in view of this there can be no confiscation or penalty imposable on the appellants. He however concedes the enhancement in the value to Rs. 25,61,348/-.

3. Heard both sides and perused the records.

4. We find merit in the submissions of the Ld. Advocate and reliance on the judgment of the Hon'ble High Court of Madras in the case of City Office Equipment (supra). Following the same, we hold that the imported goods in question are not restricted item. However, we find that the goods have been found liable to confiscation only under Section 111 (d) ibid, this being so, confiscation and imposition

of penalty cannot sustain for the same and the same is liable to be set aside, which we hereby do.

5. Appeal is thus allowed with consequential relief, if any, as per law.

(Operative part of the Order pronounced in the open Court)

(MADHU MOHAN DAMODHAR) MEMBER (TECHNICAL)	Sulekha Beevi (SULEKHA BEEVI C.S.) MEMBER (JUDICIAL)

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