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

C/15/2009

(Arising out of Order-in-Original No.8244/2008 dated 07.11.2008 passed by the Commissioner of Customs (Seaport-Import), Chennai)

M/s. S.S.R. Enterprises : Appellant

Vs.

CC (Seaport-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: **10.08.2017**

FINAL ORDER No. 41703 **/2017**

Per Bench

The issue in the appeal relates to the import of old/used digital multifunction print and copier machines. Department took the view that the impugned goods are restricted for import and required valid license for import, which was not produced by the importer. The value of the goods were enhanced. In adjudication

Customs, Excise & Service Tax Appellate Tribunal the goods were confiscated under Section 111 (d) of the Customs Act, 1962 giving an option to pay redemption fine of Rs.6,50,000/- under Section 125 ibid and also imposed penalty of Rs. 1,75,000/- under Section 112 (a) ibid. Hence this appeal.

2. At the time of hearing, the Ld. Counsel Shri A.K. Jayaraj appearing for the appellant submitted that he is not contesting the enhancement of value and is confining the challenge to the redemption fine and penalty imposed.

3. Ld. AR, Shri B. Balamurugan, AC, reiterated the findings in the impugned order.

4. Ld. Counsel for the appellant has relied on the judgment of the Hon'ble High Court of Madras in the case of CC, Tuticorin Vs. City Office Equipment – 2014 (302) ELT 212 (Mad.) to contend that there was no restriction for import of digital multifunction print and copier machines during the relevant period. Following the same, we hold that the items are not restricted items. However, we find that since the declared value has been enhanced it is establishing that there is mis-description of the goods. In such circumstances, we are of the view that the redemption fine and penalty would sustain but that imposed by the authorities below is on the higher side. We hold that reducing the redemption fine to Rs. 75,000/- and the penalty to Rs. 25,000/- would meet ends of justice.

Customs, Excise & Service Tax Appellate Tribunal

5. In the result, appeal is partly allowed by modifying the impugned order by reducing the redemption fine to Rs. 75,000/- and penalty to Rs. 25,000/- without disturbing the enhancement of value. Appeal is partly allowed in above terms.

(Operative portion of the order was pronounced in open court)

(MADHU MOHAN DAMODHAR)
MEMBER (TECHNICAL)

(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

BB

Customs, Excise & Service Tax Appellate Tribunal

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चेन्नै/Chennai