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

C/142/2010

(Arising out of Order-in-Appeal C.Cus. No. 20/2010 dated 4.1.2010 passed by the Commissioner of Customs (Appeals), Chennai)

M/s. Skylark Office Machines — Appellant

Vs.

Commissioner of Customs, Imports, Chennai — Respondent

Appearance

Shri A.K. Jayaraj, Advocate for the Appellant
Shri K. Veerabhadra Reddy, JC (AR) for the Respondent

CORAM

Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing / Decision: **26.10.2017**

Final Order No. 42448/2017

Per Bench

The appellant had imported 'old & used digital multifunctional printers and copying. The value of the goods was enhanced to Rs.19,83,661/- in terms of Rule 9 of the Customs Valuation Rules, 2007. The lower authority held that these are restricted items and confiscated the goods under section 111(d) of the Customs Act, 1962 for policy violation and mis-declaration. However, he allowed the goods to be redeemed on payment of fine and imposed penalty. In appeal,

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Commissioner (Appeals) modified the adjudication order to the extent of reducing the imposition of fine and penalty. Hence this appeal.

2. The learned counsel Shri A.K. Jayaraj submitted that the appellant is not contesting the enhancement of value and that the contest is confined only to imposition of redemption fine and penalty. He further 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 Commissioner of Customs, Tuticorin Vs. City Office Equipment – 2014 (302) ELT 212 (Mad.) were inter alia, 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 appellant.

3. The learned AR Shri K. Veerabhara Reddy reiterated the findings in the impugned order.

4. We have heard the submissions made by both sides. 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). This Tribunal vide Final Order No. 41635/2017 dated 7.8.2017 has set aside the redemption fine and penalty. 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

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confiscation only under section 111(d) ibid, this being so, confiscation and imposition of penalty cannot sustain and the same is liable to be set aside, which we hereby do.

5. In the result, appeal is disposed of in the above terms with consequential relief if any.

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

Sulekha Beevi

(**MADHU MOHAN DAMODHAR**)
Member (Technical)

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

Rex

Customs, Excise & Service Tax Appellate Tribunal

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सहायक पंजीकार / Asst. Registrar
सीमाशुल्क उत्पादशुल्क एवं सेवा कर
अपील अधिकरण / (CESTAT)
चेन्नै / CHENNAI