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

C/329 to 334/2010

(Arising out of Order-in-Appeal C.Cus. No. 413 to 418/2010 dated 4.5.2010 passed by the Commissioner of Customs (Appeals), Chennai)

M/s. Enterprise International Ltd. Appellant

Vs.

Commissioner of Customs, Chennai Respondent

Appearance

Dr. S. Krishnanandh, 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: **11.12.2017**

Final Order Nos. 43407-43412/2017

Per Bench

These appeals have been filed against the order passed by the Commissioner (Appeals) who has dismissed the appeals on the ground of being time-barred.

2. Brief facts are that the appellants filed six Bills of Entry on various dates for clearance of imported silk fabrics. It is their case that they could not claim the benefit of Notification

No. 30/2004 dated 9.7.2004, since the same was not updated in the EDI system. Against the assessment orders, the appellant filed appeals before the Commissioner (Appeals) who dismissed the appeals for being filed beyond the condonable period of limitation. Hence these appeals.

3. On behalf of the appellant, ld. counsel Dr.S.Krishnanandh submitted that against the assessment of Bills of Entry, the appellant had requested the Assistant Commissioner of Customs to issue a speaking order for the purpose of filing an appeal. However, no such speaking order was issued. Therefore, the Commissioner (Appeals) ought not to have dismissed the appeals on the ground of time-bar.

4. Against this, the ld. AR Shri K. Veerabhadra Reddy submitted that the assessments of Bills of Entry were done prior to 1.12.2009 and the appeals were filed before the Commissioner (Appeals) only on 10.3.2010. The request to issue a speaking order was given to the department only on 22.3.2010. That therefore the Commissioner (Appeals) has rightly dismissed the appeals being time-barred.

5. Heard both sides.

6. On perusal of the records, we find merit in the arguments put forward by the ld. AR on behalf of Revenue. All the six Bills of Entry were assessed and communicated to the appellant on various dates which were prior to 1.12.2009 and the appeals

Customs, Excise & Service Tax Appellate Tribunal were filed before the Commissioner (Appeals) on 10.3.2010 only. This is much beyond the time limit prescribed under the Act for filing appeals before the lower appellate authority. We find that the request to issue a speaking order has been given to the department which is dated 22.3.2010. This letter is after filing the appeal before the lower appellate authority. It can be reasonably inferred that such letter was given an afterthought to circumvent the delay in filing the appeal. We therefore find no grounds to interfere with the order passed by the Commissioner (Appeals). The impugned order is upheld and the appeals are dismissed.

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

(**Madhu Mohan Damodhar**)
Member (Technical)

(**Sulekha Beevi C.S.**)
Member (Judicial)

Rex

Customs, Excise & Service Tax Appellate Tribunal

प्रमाणित प्रति / CERTIFIED TRUE COPY
25/04/18
सहायक पंजीकार / Assistant Registrar
सीमा शुल्क, उत्पाद शुल्क एवं सेवा कर अपीलीय अधिकरण,
चेन्नई / CESTAT, CHENNAI - 600 006.