

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

C/371/2008

(Arising out of Order-in-Original No. 8061/2008 dated 25.08.2008
passed by the Commissioner of Customs (Imports), Chennai.)

M/s. Keltron Electro Ceramics Ltd. : Appellant

Vs.

CC (Port-Import), Chennai : Respondent

Appearance

Ms. Minchu Punnose, Adv.,
For the appellant

Shri B. Balamurugan, AC (AR)
For the respondent

CORAM

Hon'ble Shri D.N.PANDA, Judicial Member

Hon'ble Shri MADHU MOHAN DAMODHAR, Technical Member

Date of Hearing/Decision: 02.03.2017

FINAL ORDER No. 40893 /2017

Per: D.N.Panda,

Appellant importing 'Varistors' which was visible to the naked eye as such during physical examination, declared that as parts of Varistor. Result of physical examination revealing truth was not controverted by the appellant. That proved mis-declaration of the description of the goods. Appellant says that Revenue without



challenging the assessment made the adjudication erroneously. Therefore that is unsustainable.

2. Revenue's contention is that there was deliberate mis-declaration of description of goods which was established from the physical examination. Accordingly, it was a fit case to invoke the proviso to section 28 (1) of Customs Act, 1962 and issue notice to the appellant for adjudication so as to deter intentional evasion. Appropriate levy was made since mis-declaration rendered the goods to be confiscated and penalty leviable.

3. Heard both sides and perused the records.

4. Mis-declaration of description of the goods was patent when physical examination revealed truth. The goods imported were varistors but not parts of varistors. Such mis-declaration made the goods liable to confiscation and penalty. Once breach of law was established demonstrating deliberate intention to evade duty, proviso to section 28 (1) of the Customs Act, 1962 was rightly invoked and consequence of law was to follow. Authority below has acted properly under law.

5. In the result appeal is dismissed.

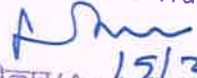
(Dictated and pronounced in open Court)

 07/03/2012
(MADHU MOHAN DAMODHAR)
TECHNICAL MEMBER

 15/3/2012
(D.N. PANDA)
JUDICIAL MEMBER

BB



प्रमाणित प्रति / Certified True Copy

सहायक पंजीकार / Asst. Registrar
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