

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

Appeal No.C/290/2008, C/CO/40194/2014

[Arising out of Order-in-Original No.13/2008 dt. 30.04.2008 passed by the Commissioner of Customs, Tuticorin]

Commissioner of Customs,
Tuticorin

Appellant

Versus

The Metal Powder Company Ltd.

Respondent

Appearance:

Shri K. Veerabhadra Reddy, JC (AR)
For the Appellant

Shri S. Muthuvenkatraman, Advocate
For the Respondent

CORAM :

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

Hon'ble Shri Madhu Mohan Damodhar, Technical Member

Date of hearing / decision : 08.02.2017

FINAL ORDER No. 40198/2017

Per D.N. Panda

Revenue says that law is well settled that ^{when an} option is granted for re-export, the importer gets an opportunity to redeem the goods from the custody of Customs on payment of redemption fine as has been held by the Apex Court in the case of *Collector Vs Elephanta Oil and Industries Ltd.* – 2003 (152) ELT 257 (SC) and



such decision followed by Madras High Court in the case of *Chennai Marine Trading (P) Ltd. Vs CC (Seaport-Import), Chennai* – 2014 (304) ELT 354 (Mad.).

2. In view of settled position of law as above, matter is remanded to the Id. Adjudicating Authority to issue appropriate notice to the respondent to determine the redemption fine in accordance with law. Respondent shall be granted reasonable opportunity of hearing to defend both on facts and law and the authority, following the guidelines of the Apex Court and Madras High Court, shall pass appropriate order, recording pleading and evidence.

3. Respondent has filed cross objection challenging imposition of penalty. Since appeal is remanded on the principal ground as above, respondent may raise its ground, if any, for non-imposition of penalty before him and that authority, considering the plea of respondent, shall pass appropriate order.

In the result, appeal of Revenue is remanded to Adjudicating Authority. Cross-objection is disposed with the direction as above.

(Dictated and pronounced in open court)


(Madhu Mohan Damodhar)
Technical Member


(D.N. Panda)
Judicial Member

gs



प्रमाणित प्रतिलिपि / Certified True Copy


23/2
सहायक रजिस्ट्रार / Asst. Registrar
सामान्य शुल्क उत्पाद शुल्क एवं सेवा कर
अपील अधिकार / (CESTAT)
चेन्नई / Chennai