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

C/554/2005

(Arising out of Order-in-Appeal C. Cus. No. 679/2005 dated 14.10.2005 passed by the Commissioner of Customs (Appeals), Chennai).

M/s. Green Leaf Tobacco Threshers Ltd. : Appellant

Vs.

CC (Port – Import), Chennai : Respondent

Appearance

Shri R. Suresh, Adv.,
For the appellant

Shri A. Cletus, ADC (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: 09.02.2017

FINAL ORDER No. 40230 /2017

Per: D.N.Panda,

Appellant's grievance is that the goods imported by it was expecting grant of EPCG Licence in its favour and also to be governed by EPCG Scheme. However, such licence was issued to the appellant on 18.04.2000. The goods came to India on import was covered by the Bill of Entry filed on 25.04.2000 which was assessed on 05.05.2000. Appellant being an EPCG Licence holder, it is entitled to the benefit of Notification No. 49/2000 dated 27.04.2000. Para 2(1) of the notification says that an EPCG Licence holder can import the goods @5% of duty and accordingly, such benefit cannot be denied. Alternatively, appellant is also entitled to the benefit of Notification No. 28/97-CE dated 01.04.1997.

2.1 Revenue on the other hand says that there is no doubt that para-2(1) is applicable to EPCG goods but on the relevant date of presentation of the Bill of Entry, the notification No. 49/2000-Cus dated 27.04.2000, had not seen the light of the day. Accordingly, appellant cannot get the benefit under that notification.

2.2 According to Revenue in so far as the alternative plea of the claim of benefit of notification No. 28/97 dated 01.04.97 is concerned, appellant shall also not get the benefit since no concerned EPCG Licence was produced before the customs authorities at the time of clearance of the goods.

3. Heard both sides and perused the records.

4.1 Law is well settled that grant of a notification is effective from the date of its issue as has been held by the Apex Court in the case of *CCE Vs. Sunwin Techno solution Pvt. Ltd.* – 2011 (21) STR 97 (S.C.). Therefore, appellant is not entitled to get the benefit of notification no. 49/2000-Cus dated 27.04.2000 which was not in force at the time of filing of Bill of Entry.

4.2 In so far as the alternate plea to consider its case in the light of notification No. 28/97 dated 01.04.97, is concerned ld. Adjudicating authority in para-5 of his order has considered such plea of the appellant. The authority says that there is different export obligation amount and period prescribed by the licence, for which exemption under that notification is not admissible to the appellant without suitable amendment by appropriate authority. That was not done. Hence he denied the benefit of exemption under the Notification No. 28/97.

4.3. In absence of any materials to show that the EPCG licence was amended by the authority, there is no scope to intervene to the findings of the adjudicating authority on that count also.

5. In the result, appeal is dismissed in toto.

(Dictated and pronounced in open Court)

14/02/2017

(MADHU MOHAN DAMODHAR)
TECHNICAL MEMBER

13/2/2017

(D.N. PANDA)
JUDICIAL MEMBER

BB

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