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

C/174/2005

(Arising out of Order-in-Original No. 30/2004 (Commr.) dated 12.10.2004 passed by the Commissioner of Customs, Trichy).

M/s. Charan Enterprises Appellant

Vs.

CC, Trichy Respondent

Appearance

Shri A.K. Jayaraj, Advocate,
for the appellants

Shri K. Veerabhadra Reddy, JC (AR)
for the Respondent.

CORAM :

Hon'ble Smt. SULEKHA BEEVI C.S., Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member Technical

Date of Hearing/Decision: 20.04.2017

FINAL ORDER Nos. 40645 **/2017**

Per: Madhu Mohan Damodhar

The issue in dispute relates to import of second hand photocopiers vide Bill of Entry No. 1090/2004-2005 dated 12.08.2004. Declared value of Rs. 9,71,617.50 C&F was enhanced in adjudication to Rs. 17,09,480/- C&F. The said goods were also confiscated under Section 111 (d) of Customs Act read with Exim Policy for import of goods for not having specific license and redemption fine of Rs. 2,56,000/- was imposed along with a penalty of Rs. 85,000/- under Section 112 (a) of the Act. Aggrieved, appellants have come up in appeal.

2. Today when the matter came up for hearing, ld. Counsel Shri A.K. Jayaraj submits that they are on appeal only on redemption fine and penalty. He points out that the goods were imported prior to 19.10.2005 and import of photocopying machines stand restricted only on and after 19.10.2005. He relies on the ratio of the following decisions in support of his argument:

a. *Atul Commodities Pvt. Ltd. Vs. CC, Cochin*
2009 (235) ELT 385 (S.C.)

b. *Aditya Digital Imaging Solution Vs. CC, Trichy (Tri.-Chen.)*
F. Order No. 42177/2016 dated 25.10.2016

3. On the other hand, ld. AR supports the adjudication order.

4. Heard both sides and have gone through the records.

5. It is not disputed that impugned goods have been imported before 19.10.2005. Admittedly, prior to this date there was no restriction to import second hand photocopier machines. Hence, there cannot be any penalty and redemption fine on these imported goods. In arriving the decision, we are inclined to follow the ratio of the Tribunal decision in the case of Aditya Digital Imaging Solution (supra).

6. Appeal is therefore allowed on the above terms.

(Order dictated and pronounced in the open court)

(MADHU MOHAN DAMODHAR)
MEMBER (TECHNICAL)

(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

BB

Customs, Excise & Service Tax Appellate Tribunal

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