

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH – COURT NO. III

**CUSTOMS MISCELLANEOUS APPLICATION No.40122 of 2021
&
CUSTOMS APPEAL No.41022 of 2019**

(Arising out of Order-in-Original No.288/2018-19-Chennai-I dated 14.03.2019 passed by Commissioner of Customs, Chennai-I, Chennai]

M/s. LSML Private Ltd.

[formerly Leitwind Shriram Manufacturing Pvt. Ltd.]
Plot No.D.17, SIPCOT Industrial Complex, NH-16
Gummidipoondi, Tiruvallur District
Tamil Nadu 601 201.

Appellant

VERSUS

Principal Commissioner of Customs

Chennai III Customs Commissionerate,
Custom House, 60, Rajaji Salai,
Chennai 600 001.

Respondent

AND

CUSTOMS APPEAL No.41403 of 2019

(Arising out of Order-in-Original No.288/2018-19-Chennai-I dated 14.03.2019 passed by Commissioner of Customs, Chennai-I, Chennai]

Commissioner of Customs

Chennai I Customs Commissionerate,
New Custom House,
Meenambakkam
Chennai 600 027.

Appellant

VERSUS

M/s. LSML Private Ltd.

(formerly Leitwind Shriram Manufacturing Pvt. Ltd.)
Plot No.D.17, SIPCOT Industrial Complex, NH-16
Gummidipoondi, Tiruvallur District
Tamil Nadu 601 201

Respondent

APPEARANCE :

Shri N. Viswanathan, Advocate
For the Assessee

Shri Vikas Jhajharia, Assistant. Commissioner (Authorized Representative)
For the Revenue

**CORAM: HON'BLE MR. RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER(TECHNICAL)**

DATE OF HEARING : 21.10.2021
DATE OF PRONOUNCEMENT: 15.02.2022

FINAL ORDER No. 40070-40071/2022

Order PER: P. ANJANI KUMAR

Heard both sides and perused the records of the case.

2. M/s. LSML Private Ltd (formerly Leitwind Shriram Manufacturing Pvt Ltd), the appellants (in Customs Appeal No.41022 of 2019), are manufacturers of wind turbines at their factory located at Gummidipoondi; they imported 1262 pieces of Hot Rolled Painted Steel Plates weighing 5507.403 MT, through the Chennai Port, vide BE no. 4008987 dated 22.01.2016 and bonded the goods in public bonded warehouse; they made various clearances either for themselves or third parties such as Rajam Steels and V.K. Industrial Corporation Ltd etc and were duly allowed to be cleared by the bond officer; in respect of 878.395 MT, vide BE No. 3056014 dated 31.08.2017, officers of SIIB stopped the clearance, after payment of the duties as per the assessment made through the EDI; it was claimed that the goods are liable for the payment of the anti-dumping duty in terms of the provisional notification no. 44/2016 (ADD) dated 08.08.2016 and final notification no. 17/2017 ADD dated 11.05.2017 and the corrigendum dated 11.07.2017 issued to the said final notification. The appellant represented to the Chief Commissioner of Customs, vide their letter dated 13.10.2017, who vide communication dated 01.11.2017, informed the appellants that ADD is applicable to the goods cleared from the warehouse after issue of notification 17/2017 ADD dated 11.05.2017.

2.1. The appellants, filed a Writ Petition bearing no. 33914/2017, before the Hon'ble High Court at Madras, which was dismissed vide order dated 01.03.2018, while observing that Commissioner of Customs should issue a notice under Section 110 (2) of the Customs Act, 1962, within six months of the seizure, failing which the goods shall be returned to the person, in terms of Section 110 (2) ibid; the appellant, aggrieved by the above order

of the learned Single Judge, preferred a writ appeal 948/2018. Meanwhile, the Commissioner issued the impugned show cause notice dated 07.05.2018. The SCN proposed reassessment for the Anti-dumping duty on the seized goods covered by BE 3056014 dated 31.08.2018; confiscation of goods under Section 111 (m) of the Customs Act, 1962; penalty under Sections 112 (a) and 114AA; demand for ADD of Rs. 98446/- with applicable interest on the goods already cleared under ex-bond BE 6798264 dated 21.09.2016; Commissioner passed the impugned order dated 14.03.2019. Hon'ble Madras High Court, vide its order dated 21.11.2019, granted permission to withdraw the appeal with liberty to raise all the points before this Hon'ble Tribunal with further liberty to move the interlocutory application for release of the goods with direction to this Tribunal to decide it expeditiously besides observing the expectation that CESTAT will decide the appeal of the appellant on its own merit uninfluenced by the orders passed by the learned Single Judge. The appellant had accordingly moved appeal C/41022/2021 and a miscellaneous Application C/Misc./40122/2021 seeking release of the goods.

2.2. Revenue had also filed appeal C/41403/2019, against the same impugned order, on the grounds that the Learned Commissioner did not impose penalty under Section 114 A of the Customs Act, 1962 and that he did not demand interest under Section 28AA of the Act. Both the appeals and the miscellaneous application are taken up for disposal together.

3. Shri N. Viswanathan, Learned Advocate, appearing for the appellants submits that reassessment of goods; holding that they are liable to pay ADD; sustaining consequential demands as per SCN; confiscation of the goods; allowing to be redeemed on payment of the fine etc by adjudicating authority is totally opposed to the subtle facts and legal position; levy of the ADD on the impugned goods being a new impost, was effective from 08.08.2016, after issue of notification, No. 44/2016 ADD, under Section 9A (1) of the CTA read with Rule 20 of the Rules framed thereunder;

import of the goods and the taxable event have taken place already on 22.01.2016; Learned Commissioner, sustaining the levy retrospectively by placing wrong interpretation on Section 9A (8) of the CTA read with Section 15 of the Act; provisions of Section 15 of the Act being machinery provision and not a charging section, cannot be applied to the goods on which the levy was not in force on the date of its import (taxable event). He submits that the respondent ought to have considered the following judicial pronouncements.

- (a) *Vazir Sultan Tobacco Co., 1996 (83) E L T 3 (SC) [paras 5, 9 & 11]*
- (b) *Sneh Enterprises 2006 (202) E L T 7 (SC) [Paras 22-26]*
- (c) *G.M. Exports 2015 (324) E L T 209 (SC) [Paras 24, 34, 36, 45, 48]*
- (d) *Suja Rubber Industries 2002 (142) E L T 586 (Tri. -Chennai) [para 6]*
- (e) *M.K.P. Fashions 2004 (174) E L T 47 (Tri. -Kol) [Paras 10 &11]*
- (f) *Ashima Fabrics 2003 (154) E L T 530 (Tri. -Mum) [Para 17] confirmed by SC reported in 2010 (341) E L T A100 (SC)*
- (g) *J.M. Agarwal Tobacco Co., 2016 (341) E L T 346 (Tri. -All) [Para 4]*
- (h) *Letter F. No. 345/2/2004 TRU (pt.) dated 10.08.2004*
- (i) *Commissioner of Customs ICD N. Delhi versus Chandra Prabhu*

4. Learned Advocate submits that the respondent tried to get over the provisions of Section 9A (1) of the CTA and Rule 20 by giving a different meaning to the term "import" by borrowing the meaning from the Oxford dictionary (which also does not support his view) overlooking the statutory definition appearing in Section 2 (23) of the Customs Act. He submits that learned Commissioner gives wrong findings, to reject their claim that the import of the subject goods being prior to imposition of levy, ADD is not leviable, that

(i). Rule 13 and 20 of the 1995 Rules only specify the period of implementation of the provisional and final notifications, whereas in the case of the appellant the dispute with regard to the said Rules does not arise and that the Rules only use the term 'importation' and not 'import or imported goods' and therefore the above Rules are not relevant;

(ii). since the show cause notice has not invoked Section 9A (3) of the CTA, he will not consider the contentions raised concerning the said provision holding that there is no merit in the issue raised

(iii). import attains finality only when the ex-bond bill is granted Out of charge order by the proper officer;

(iv). Section 9A (1) of the CTA is clearly against the provisions of Section 46 of the Act requiring the assessment of the goods on importation as well as the various provisions under Chapter IX of the Customs Act;

(v). goods deposited in the warehouse are "dutiable goods" in terms of Section 2 (14) of the Act;

(vi). Section 9A never referred to the anti-dumping duty as a duty in addition to the payment of duties of customs and that Section 9A cannot be enforced independent without Section 15 of the Customs Act.

5. Learned Advocate submits that the reassessment proposed and carried out by the respondent is not proper or correct; Section 17 only permits such re-assessment of the duties already self-assessed in terms of the Bill of Entry (Electronic Integrated Declaration) Regulation, 2018; Regulation 4 thereof does not permit the reassessment of the new impost under Section 17 of the Act; reassessment contemplated under Section 17 (4) of the Act mandates issue of an order within fifteen days of the filing of the BE; as the same has not been done the said reassessment should fail; Section 68 of the Act mandates clearance of the goods by the proper officer upon payment of the duties, interest and other charges; Section 72 provides power to the proper officer to demand the duty; hence, action of the respondent to propose and confirm the reassessment, demanding ADD is contrary to law and cannot be sustained.

6. Learned Advocate submits that the reasonable belief recorded by the proper officer in para 6 to 8 of the seizure memo, invoking regulation 3 of the BE (EID) Regulation for non-furnishing of the ADD notification in column No. 19 of the check list and for not making any attempt to correct

the self-assessment and thus, assume that the appellant sought to evade the payment of the ADD wilfully involving only a interpretational dispute renders the very seizure improper and illegal, particularly when the goods are still lying with the licensed public bonded warehouse awaiting clearance from the proper officer. Learned Advocate submits further that the respondent confiscated the goods under Section 111 (m) of the Act, read with regulation 3 of the BE (EID) Regulations, 2011 and holds that they knowingly attempted to remove the goods from the warehouse without payment of ADD contrary to the terms of such permission for removal from a warehouse; this finding is not even alleged in the Show cause Notice; it is not the case of Revenue that the value or any other particulars concerning the said goods did not correspond with the entry made under the Act; therefore, confiscation under Section 111 (m) of the Act is not legally sustainable; he relies upon the decision of the Hon'ble Mumbai Bench of the Tribunal in the case of Lexmark International P. Ltd., reported in 2011 (274) E L T 556 (T).

7. Learned Advocate submits also that the learned Commissioner finds that the appellant-importer, in spite of being educated both by the customs and by the officers that ADD is attracted on the imported goods warehoused, knowingly concerned themselves in the act of non-payment of ADD, rendering the goods liable for confiscation and penalty under Section 112 (a) of the Customs, Act 1962; the finding is arbitrary and does not meet the requirements of the express provisions contained in Sections 112, 114 A and 114 AA *ibid*; notice was issued for reassessment on a misplaced interpretation of the provisions of the law.

8. Learned Advocate submits further that the learned Commissioner wrongly concluded that the provisions of Section 110 (2) of the Customs, Act 1962 are not attracted, as far as the time limit of issue of Notice is concerned, since the matter was pending before the High Court by way of WP moved by appellants; the authority failed to see that no stay was granted by the High Court restraining the respondent from taking any further action in the matter; WP itself was disposed of on 01.03.2018

observing that there was sufficient time available to the revenue to issue the notice as provided under Section 110(2) of the Act and if not issued they will release the goods to the petitioner. He submits that the above finding contrary to the judgment passed in the WP as well as plethora of judgments passed by the Supreme Court and High Courts; he relies upon the case of A.S. Enterprises reported in 2016 (337) E L T 321 (MAD) and Board's circular dated 19.02.2013.

9. The Learned counsel for the appellant-importers, alternatively submits, without prejudice to any of the grounds taken by them on merits of non-applicability of the impugned ADD notifications to them, that the goods in question are further worked out and are covered by a different notification.

10. Adverting to the Revenue appeal (No.41403 of 2019), Learned advocate submits that there are two grounds raised in the appeal of the revenue that interest under Section 28 AA has not been demanded in respect of the goods covered by ex-bond BE no. 3056014 dated 31.08,2017 and that penalty under Section 114 A has not been imposed in respect of the other BE no. 6798264/21.09.2016. He submits that Ground no. 1 above raised by the revenue is not legally maintainable in as much as the proposal made was only to reassess the goods still lying in the warehouse and therefore question of demand of any interest under Section 28 AA does not arise at all, as there was no delayed payment of duty. Moreover, the notice itself did not propose any such demand of interest. As regards, the other ground, he submits that there is no merit in the invocation of Section 28 (4) of the Act against them for the various grounds brought out herein above and accordingly, penalty under Section 114 A is not sustainable.

11. Learned authorised Representative for the Revenue reiterates the findings of OIO in respect of Appeal No. 41022 of 2019 and the grounds of appeal in respect of appeal No.41403 of 2019. He submits, inter alia, that

(i). Sub Section 4A of Section 8(B) (on power of Central Government to compose Safeguard Duty) and Sub Section 8 of Section 9(A) of the Customs Tariff Act, 1975, clearly envisages that the provisions of the Customs Act, 1962 and the rules and regulations made there under, including those relating to the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties shall, as far as may be, apply to the duty chargeable under this section as they apply in relation to duties leviable under that Act.

(ii). A plain reading of section 9A (1) of Customs Tariff Act read with section 12 (1) of Customs Act makes clear that anti- dumping duty is one of the duty of Customs and further, any interpretation with rules or statutory provisions pertaining anti -dumping duty should not be in contrast with provisions of Customs Act; therefore, section 15 of Customs Act is relevant; section 15(1) (b) makes clear that the date for determination of rate of duty for the goods cleared from a warehouse under section 68 is the date on which the bill of entry for home consumption in respect of such goods is presented

(iii). The appellant/importer 's reliance on Rule 13 and 20 of Customs Tariff Rules, 1995 is of no avail as they deal with implementation of the provisional and final notifications,

(iv). The case laws relied upon by the appellants are not applicable as the facts can be distinguished.

(v). Importers knowingly concerned in the act of non-payment of Anti-dumping duty thereby attracting penal provisions under Section 114A; confiscation of goods covered by Bill of Entry 3056014 dated 31/08/2017 is legal s appellant has knowingly attempted goods from warehouse without payment of ADD; penalty imposed is also correct.

12. Heard both sides and perused the records of the case. Brief issue that requires consideration in the instant case is as to whether Anti-Dumping duty is leviable on clearance of goods which have been imported and warehoused before the issue of Notification imposing Anti-Dumping Duty is issued; whether confiscation and imposition of penalty is justified in respect of appeal No. 41022 of 2019 and as to whether learned Commissioner erred in not demanding interest under Section 28 AA for the goods covered by Ex-bond BE No. 3056014 dated 31.08,2017 and in not imposing equal penalty, under Section 114A, for goods covered by BE no. 6798264/21.09.2016, in respect of appeal No. 41403 of 2019.

13. We find that a perusal of the relevant sections would be immense use while dealing with the facts of the case which are extracted as under:

“SECTION 3. Levy of additional duty equal to excise duty, sales tax, local taxes and other charges. — (1) Any article which is imported into India shall, in addition, be liable to a duty (hereafter in this section referred to as the additional duty) equal to the excise duty for the time being leviable on a like article if produced or manufactured in India and if such excise duty on a like article is leviable at any percentage of its value, the additional duty to which the imported article shall be so liable shall be calculated at that percentage of the value of the imported article”.

“SECTION 9A. Anti-dumping duty on dumped articles. — (1) Where [any article is exported by an exporter or producer] from any country or territory (hereinafter in this section referred to as the exporting country or territory) to India at less than its normal value, then, upon the importation of such article into India, the Central Government may, by notification in the Official Gazette, impose an anti-dumping duty not exceeding the margin of dumping in relation to such article.

.....

.....

(8) The provisions of the Customs Act, 1962 (52 of 1962) and the rules and regulations made thereunder, including those relating to the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties shall, as far as may be, apply to the duty chargeable under this section as they apply in relation to duties leviable under that Act.”

“SECTION 15. Date for determination of rate of duty and tariff valuation of imported goods. —(1) The rate of duty and tariff valuation, if any, applicable to any imported goods, shall be the rate and valuation in force, -

(a) in the case of goods entered for home consumption under section 46, on the date on which a bill of entry in respect of such goods is presented under that section];

(b) in the case of goods cleared from a warehouse under section 68, on the date on which a bill of entry for home consumption in respect of such goods is presented under that section;

(c)"

“SECTION 17. Assessment of duty. — (1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

(2) The proper officer may verify the self-assessment of such goods and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary.

(3) For verification of self-assessment under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, exporter or such other person shall produce such document or furnish such information.

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.”

14. On a perusal of the above, it is very clear that Section 15 applies squarely to goods warehoused under Section 68 as it applies to goods presented for clearance for home consumption under Section 46 of the Customs Act. Sub-section (8) of Section 9A of the Customs Tariff Act, 1975 which provides that provisions of the Customs Act, 1962 (52 of 1962) and the rules and regulations made thereunder, including those relating to the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties shall, as far as may be, apply to the duty chargeable under this section as they apply in relation to duties leviable under that Act.

15. We find that Ld. Commissioner has held as under:

“22.2 The sub-section (1) of Section 9A of the Customs Tariff Act, which provides for the levy of the ADD says, “Where any article is exported by an exporter or producers from any country or territory (hereinafter in this section referred to as the exporting country or territory) to India at less than its normal value then upon the importation of such article into India the central government may by notification in the official gazette impose an anti-dumping duty not exceeding the margin of dumping in relation to such articles.

22.3 The said statutory provision makes amply clear that the notified article is liable for anti-dumping duty upon importation into India. Hence, the term “importation” gains the significance and the term ‘importation’ has not been defined under Customs Act.

22.4 As per the Oxford English dictionary the word “importation” refers to bringing of goods or services into a country from abroad for sale or any other purpose. Therefore, in the prevailing context, it elaborately includes the landing of the goods, and final clearance from customs area. Thus, unless, the goods move out of the customs declared import area, it does not attain finality of the importation. While discussing the said statutory provision, the importer has brought out the term, “import and imported goods” as defined in Customs Act but they are not referred in the said statutory provisions and as such, they are not relevant here.

22.5 Merely warehousing of the goods does not complete the process of the importation. In practice, the warehoused goods may be exported again to a third party, may be sold to other party, transferred under bond to other etc. Therefore, the importation of subject warehoused goods attains the finality only when their ex-bond bill is given out of charge by the proper officer. Therefore, the contention of the importer that the subject goods have been already imported and as such, the anti-dumping duty cannot be imposed is contrary to provisions of sub-section (1) of Section 9A of the Customs Tariff Act.

.....

22.9 Thus, section 9A(8) of the Customs Tariff Act thus brings the provisions of Customs Act for implementation of anti-dumping duty notifications. Therefore, it is understandable that the provisions of Customs Act cannot be violated while implanting the anti-dumping duty notifications issued under Customs Tariff Act. Section 9A(8) discusses various aspects such as the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties shall, as far as may be. The date for

determination of rate of duty is unambiguously covered in the said section and as such, it should be incoherent with the provisions of Customs Act 1962. At this stage, the relevance of the Section 12 and 15 of Customs Act 1962 requires to be discussed. The section 12 (1) of Customs Act reads as under:

“(1) Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the Customs Tariff Act, 1975 (51 of 1975)], or any other law for the time being in force, on goods imported into, or exported from India.....”.

Therefore, a plain reading of section 9A (1) of Customs Tariff Act read with section 12 (1) of Customs Act makes clear that anti-dumping duty is one of the duty of Customs and further, any interpretation with rules or statutory provisions pertaining anti- dumping duty should not be in contrast with provisions of Customs Act.”

16. We also find that Ld. Counsel for the appellant-importer has relied upon the various decisions as under:

- (i) CCE Hyderabad Vs Vazir Sultan Tobacco Co Ltd.1996 (83) ELT 3 (SC)
- (ii) SNEH Enterprises Vs CC New Delhi 2006 (202) ELT 7 (SC)
- (iii) CC Bangalore Vs G.M. Exports 2015 (324) ELT 209 (S.C.)
- (iv) CC Chennai Vs Suja Rubber Industries2002 (142) ELT 586 (Tri.-Chennai)
- (v) M.K.P. Fashions Vs CC (Port) Kolkata2004 (174) ELT 45 (Tri.-Kolkata)
- (vi) CC & C.Ex Ahmedabad Vs Ashima Fabrics 2003 (154) ELT 530 (Tri.-Mumbai)
- (vii) CC Lucknow Vs J.M. Agarwal Tobacco Company 2016 (341) ELT 346 (Tri.-All.)
- (viii) CC ICD New Delhi Vs Chandra Prabhu International Ltd. 2014 (302) ELT 168 (Del.)
- (ix) Lexmark International (I) P.Ltd. Vs CC (Imports), Nhava Sheva 2011 (274) ELT 556 (Tri.-Chennai)
- (x) A.S.Enterprises Vs CC Chennai 2016 (337) ELT 321 (Mad.)

17. We find that facts and circumstance of the cases cited by the appellants are different and quite distinguishable and therefore the ratio cannot be applied. We find that in view of Section 3 of the Customs Tariff Act, 1975, Antidumping Duty is to be construed as Customs duty and therefore in view of the amendment that was carried out in 2009 all the provisions of Customs Act and the Rules made thereunder are squarely applicable to Antidumping Duty and as such in case of

warehoused goods duty applicable as on the date of clearance from warehouse is to be recovered in terms of Section 15 of the Customs Act, 1962. We find that ratio of case of *CC Chennai Vs Suja Industries* - 2002 (142) ELT 586 (Tri.- Chennai) and *Indo Ram Synthetics (I) Ltd. Vs CCE Mumbai* 2003 (156) ELT (Tri.-Mumbai) are not applicable as the same are rendered before the amendment in sub-section (8) of Section 9A of Customs Tariff Act, 1975 in 2009. Therefore, we find that Ld. Commissioner has correctly held that ADD is payable by the appellants.

18. We further find that the appellant-importers have argued that as they have warehoused the goods that have been put to the disadvantage forcing the importers to have imported during intervening period i.e. after the goods have been imported and warehoused and the same are cleared from the warehouse. However, we find that taxation does not work on the principle of the equity, if the appellant has availed the facilities under the warehousing provisions, they have to bear with the associated disadvantages, if any. It is not open for the appellant-importer to claim best of both ends. We find that importers have also submitted that Ld. Commissioner has distinguished between 'import' and 'importation' relying on the definition or the meaning contained in Oxford Dictionary instead of going by the provisions of the Customs Act. We find that observations of Commissioner in distinguishing between 'import' and 'importation' are at best superfluous and do not in any way help or harm the conclusions arrived at.

19. We find that appellant submits that the goods have been warehoused and cleared after filing the Bill of Entry which were duly checked by the officers and therefore no demand can be made. We find that this argument is spurious in so far as duty demand is concerned. We find that when all the provisions of Customs Act are made applicable to Antidumping Duty, Section 28 is also squarely applicable. Therefore, we do not find any infirmity as far as demand of duty is concerned. However, we hold that interest, if any, for the delayed payment,

interest is to be paid from the date of ex-bonding by the appellant-importer as payment of interest is consequential to the demand of duty in respective manner.

20. However, we find that confiscation and imposition of redemption fine are not warranted as here was nothing that the appellant-importers have consciously suppressed or misrepresented. If ADD escaped assessment, the department is free to demand the same as per provisions of Customs Act, 1962. However, for the same reason, goods cannot be confiscated and penalty cannot be imposed. Therefore, we set aside the confiscation of the goods, imposition of redemption fine and various penalties. For this reason, we find that department appeal has no merit and needs to be rejected except on levy of interest under Section 28AA on ADD of Rs.79,55,066/- in respect of goods cleared vide BE No.3056014 dt. 31.08.2017 which we have already upheld.

21. In the result,

- (i) **Appeal No.41022 of 2019** filed by M/s. LSML Private Ltd. (Appellant Importer) is partially allowed by upholding duty demand, interest and setting aside confiscation, redemption fine and penalties.
- (ii) **Revenue Appeal No.41403 of 2019** is dismissed in above terms.
- (iii) **MA No.40122 of 2021** filed by appellant-importer stands disposed of accordingly in terms of above order.

(Pronounced in court on **15.02.2022**)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)