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

Appeal No.C/192/2009

[Arising out of Order-in-Original No.618/2009 dt. 06.04.2009 passed by the Commissioner of Central Excise (Airport), Chennai]

Tata Consultancy Services — Appellant

Versus

Commissioner of Customs (Airport & Aircargo) Chennai — Respondent

Appearance:

Shri M. Karthikeyan, Advocate
For the Appellant

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

CORAM :

Hon'ble Ms. Sulekha Beevi C.S. Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of hearing / decision : 19.09.2017

FINAL ORDER No. 42150/2017

Per Bench

The facts of the case are that appellant had filed Bill of Entry No.767106 dt. 07.01.2009 for the clearance of certain used computer parts and components and declared the value as Rs.63,77,851/-. As

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these goods were used computer parts and components, order for first check was given to examine the goods with the help of a Chartered Engineer to arrive at the value. Initially, these goods were examined by Shri Thirunavukkarasu, Chartered Engineer. However, as per Public Notice No.120/2008 dated 01.09.2008, a Chartered Engineer specialized in computers only has to examine the computers and its components to arrive at the correct value based on its condition. Accordingly, Dr. R. Murugesan, Chartered Engineer, specialized in computers has examined the goods and stated that the same are used. The department took the view that the goods will require specific licence for the goods imported as per para 2.17 of the Foreign Trade Policy 2004-2009. In adjudication proceedings, goods valued at Rs.75,90,054/- was confiscated and based on the submission of the appellant during adjudication processed goods were allowed to be re-exported on payment of fine of Rs.7,50,000/- under Section 125 of the Customs Act, 1962. Penalty of Rs.3 lakhs was imposed under Section 112 ibid.

2. Today when the matter came up for hearing, on behalf of the appellant, Ld. Advocate Shri M. Karthikeyan submits that goods that they were not aware of the fact that the goods were consigned to

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them and they came to know only about import only after the bill of entry was filed by the CHA of the foreign supplier on Duty-Paid Basis (DPB). He submits that this is a bonafide reason for which no fine and penalty should be imposed. They were a STP unit and as such the equipment was, in any case, allowed to be imported duty-free by them.

3. On the other hand, Ld. D.R supports the adjudication. He draws attention to the fact that appellant vide their letter dt. 15.1.2009 staed that the goods are imported for test and they would be reexporting it after test. The same fact was again confirmed by the supplier on 28.1.2009.

4. Heard both sides and have gone through the facts. Notwithstanding the protestations of the ld. Advocate that the goods have come without intimation and that Bill of Entry has not been filed by them, the fact remains that they have owned the import and also participated in subsequent proceedings before the customs authorities and the adjudicating authority. It is also not disputed that they themselves submitted by their letter that the goods have been imported for test. This being so, the order of confiscation and

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imposition of penalty is in keeping with the legal provisions. However, we are of the considered opinion that redemption fine can very well be reduced to **Rs.1,50,000/-** (Rupees one lakh fifty thousand only) and penalty imposed to **Rs.50,000/-** (Rupees fifty thousand only). So ordered. Appeal is partly allowed in the above terms.

(dictated and pronounced in court)

Sulekha Beevi

(Madhu Mohan Damodhar)
Member (Technical)

(Sulekha Beevi C.S)
Member (Judicial)

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Customs, Excise & Service Tax Appellate Tribunal

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