IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, CHENNAI

Customs Appeal No. 40067 of 2015

(Arising out of Order-in-Appeal No. 119/2014 dated 14.10.2014 passed by the Commissioner of Customs & Central Excise (Appeals - 2), Trichy)

M/s. Sundaram Fasteners Ltd. **Appellant**
Arus Corporate Centre
98, Radhakrishnan Salai, 7th Floor
Mylapore, Chennai – 600 004.

Vs.

Commissioner of Customs **Respondent**
Custom House
New Harbour Estate
Tuticorin.

APPEARANCE:

Shri M. Kannan, Advocate for the Appellant
Ms. T. Usha Devi, DC (AR) for the Respondent

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Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri C.J. Mathew, Member (Technical)

Final Order No. **40103 / 2020**

Date of Hearing: 07.02.2020
Date of Decision: 07.02.2020

Per Ms. Sulekha Beevi C.S.

Brief facts are that the appellants who are holders of EPCG license filed Bill of Entry dated 10.4.2003 and imported capital goods from USA under their license claiming benefit of Notification No. 44/2002-Cus. dated 19.4.2002 which provides for concessional rate of 5% BCD and whole exemption from CVD and SAD. At the time of import, the appellant executed LUT bond for Rs.77 lakhs. Show Cause Notice dated 15.2.2012 was issued to the appellants demanding duty of Rs.76,93,493/- alleging that appellant has failed to produce Export Obligation Discharge Certificate. After due process of law, the adjudicating authority confirmed the demand with interest. Commissioner (Appeals) vide order impugned upheld the same. Hence this appeal.

2. Today, when the matter came up for hearing learned counsel Shri M.Kannan appearing for the appellant submitted that the appellants have been issued EODC on 30.8.2018. The same was pending before DGFT for verification and the appellants could not produce before the authorities below. He prayed for remand to the adjudicating authority to consider the EODC and pass appropriate orders.

3. Heard the ld. AR Ms. T. Usha Devi.

4. After hearing both sides and on perusal of the EODC produced by the appellant, we are of the opinion that the matter requires to be remanded to the adjudicating authority who shall adjudicate the matter afresh after taking into consideration the EODC issued to the appellant. The impugned order is set aside and the appeal is allowed by way of remand. Ordered accordingly.

(Dictated and pronounced in open court)

(**SULEKHA BEEVI C.S.**)
Member (Judicial)

(**C.J. MATHEW**)
Member (Technical)

Rex