**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,**
**SOUTH ZONAL BENCH, CHENNAI**

**COURT HALL No. III**

**CUSTOMS APPEAL No. 40088 OF 2014**

(C/Cross Objection/41540/2014-filed by respondent)

(Arising out of Order-in-Appeal C.Cus.No.1016/2013 dated 22.07.2013 passed by Commissioner of Customs (Appeals), No.60, Rajaji Salai, Custom House, Chennai 600 001)

**The Commissioner of Customs** .... **Appellant**
Export Commissionerate,
Custom House,
Chennai - 600 001.

Versus

**M/s. K.I. International Ltd.** ...**Respondent**
No.664, T.H. Road,
Chennai - 600 081.

**APPEARANCE :**

M/s. Anandalakshmi Ganeshram, Supdt. (A.R)
For the Appellant

Mr. A.Mudimannan, Advocate
For the Respondent

**CORAM :**

**HON'BLE MS. SULEKHA BEEVI C.S., MEMBER (JUDICIAL)**
**HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)**

**DATE OF HEARING : 21.07.2023**
**DATE OF DECISION : 26.07.2023**

**FINAL ORDER No.40615/2023**

**ORDER : Per Ms. SULEKHA BEEVI, C.S.**

1. Brief facts are that the respondent filed a refund claim under Notification No. 102/2007, dated 14.09.2007 as amended. After due process of law, the original authority sanctioned the refund. Against this, the Department filed an appeal before the Commissioner (Appeals) who vide order of impugned herein upheld the order of sanctioning the refund. Hence this appeal.

2. The learned AR Ms. Anandalakshmi Ganeshram appeared for the Department. It is submitted by her that out of 27 Bills of Entry, only 9 Bills of Entry with relevant documents were in the case file. The documents in respect of remaining 18 Bills of Entry were not available. It can be thus seen that the refund sanctioning authority has not scrutinized the entire documents while sanctioning the refund. The learned AR prayed that the appeal may be allowed.

3. The Ld. Counsel Shri. A. Mudimannan, Advocate appeared and argued for the respondent. It is submitted that the refund sanctioning authority while passing the Order-in-Original has considered the documents and verified the invoices, Bills of Entry, Charted Accountant Certificate etc., produced by the appellant. The Department is now alleging that the original authority has not verified the documents which is without any basis. Even before the Commissioner (Appeals), the Department has not put forward any specific ground to allege that the original authority has not verified the documents. This aspect has

been noted by the Commissioner (Appeals) in para 5 & 6 of the impugned order. The learned counsel prayed that the appeal may be dismissed.

4. On perusal of the grounds stated in the appeal, we find that there is no specific point raised by the Department. It is vaguely stated that the original authority has not examined the documents. On perusal of the orders in original it is seen that 27 bills of entry were taken up for processing the claim of refund. The refund sanctioning authority has recorded the conclusion with regard to the details of requisite documents, submitted by respondent. The payment of additional customs duty, sale of goods, payment of VAT, correlation of VAT with goods sold, limitation, endorsement regarding non admissibility of CENVAT credit in sales invoices, assignment of goods under RSP, goods sold in consignment, benefit of exemption notification, and the compliance of Chartered Accountant Certificate are discussed in the order in original. It can be seen that the original authority has taken in to consideration the entire points required for sanctioning the refund. Department did not have any legal or factual grounds in the appeal filed before the commission (Appeals) also. It is noted by the Commissioner (Appeals) in the impugned order as under :-

> “Hence I am of the opinion that the refund authority has just made the lower authority to file an appeal contrary to his own justification in the impugned order without pointing out the specific Lacunae”.

5. In the grounds of appeal, as we have already stated there is no specific points raised by the Department. After considering the

arguments and perusal of the records, we are of the considered opinion that the impugned order does not call for any interference.

6. The Department appeal is dismissed. The cross objections filed by the respondent is accordingly disposed off.

(pronounced in court on 26.07.2023)

(**VASA SESHAGIRI RAO)**
Member (Technical)

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

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