IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT NO. III

Customs Appeal No. 42205 of 2013

(Arising out of Order-in-Appeal C.Cus.No. 1023/2023 dated 22.07.2013 passed by Commissioner of Customs, No. 60, Rajaji Salai, Custom House, Chennai – 600 001)

Commissioner of Customs **...Appellant**
Export Commissionerate,
No. 60, Rajaji Salai,
Custom House,
Chennai – 600 001.

Versus

M/s. Poly Pipes **...Respondent**
No. 10, Choolai High Road,
Chennai – 600 112.

APPEARANCE:

For the Appellant : Shri N. Satyanarayanan, Assistant Commissioner / A.R.

For the Respondent : None

CORAM:

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

DATE OF HEARING / DECISION : 29.08.2023

FINAL ORDER No.40727/ 2023

Order :Per Ms. SULEKHA BEEVI C.S.

Brief facts are that the respondent filed refund-claim under Notification No. 102/2007 dated 14.09.2007 for refund of SAD. After due process of law, the original authority sanctioned the refund-claim observing that all the documents furnished by the respondent are in order. Against this, the Department filed an appeal before the Commissioner (Appeals) alleging that the Chartered Accountant Certificate produced by the respondent along with the refund-claim is very vague and does not establish whether the refund-claim is hit by unjust enrichment. The Commissioner (Appeals) *vide* order impugned herein observed that the Chartered Accountant Certificate is in order and that the Department has not put forward proper ground as to the allegation in respect of Chartered Accountant Certificate. The appeal filed by the Department was dismissed. Aggrieved by such order, the Department is now before the Tribunal.

2. The Ld. Authorised Representative Shri N. Sathyanarayan reiterated the grounds of appeal. The Ld. AR has also produced the copy of the Chartered Accountant Certificate.

3. None appeared for the respondent, even though the notice was issued.

4. The matter is taken up for disposal after hearing the Ld. AR and perusing the records.

5. The main ground raised in the appeal is that the Chartered Accountant Certificate produced by the respondent is vague and does not fulfill the requirement of establishing that the refund-claim is not hit by the principle of unjust enrichment. A copy of the Certificate is now produced before us. On perusal, we do not find any merit in the contentions put forward by the Ld. AR. The relevant paragraph of said Certificate is reproduced as under:-

> *"3. As required for examination of the principle of unjust enrichment in the case before sanction of refund under Notification No. 102/2007 dated 14.09.2007, this is certified that the burden of 4% CVD/SAD has not been passed on by the importer, M/s. Poly Pipes (Prop:- Smt. Premlatha Hirawat) to the buyers and the same amount has not been included in the selling price for the imported goods on sales and that they fulfil the requirement of unjust enrichment.*
>
> *4. After examination of the records, it is verified from records that the details as given in the Declaration/Declaration of the Calculations (Annexure-A) are true in details thereof."*

6. It is found that the original authority has correctly perused the records and sanctioned the refund. We do not find any merits in the appeal filed by the Department. The same is dismissed.

(Order dictated in court)

(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

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

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