IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT NO. III

CUSTOMS APPEAL NO. 41588 of 2014

(Arising out of Order-in-Appeal C. Cus No.580/2014 dated 03.04.2014 passed by Commissioner of Customs (Appels) 60, Rajaji Salai, Custom House, Chennai-600 001)

M/s. Veneer Mills, **: Appellant**
Plot#1 & 2, 5th Main,
Yadavagiri Indl Estate,
Mysore -570 020

VERSUS

The Commissioner of Customs, (Port-Export) **: Respondent**
60, Rajaji Salai,
Custom House,
Chennai-600 001

APPEARANCE:

Shri S. Loknath, Chartered Accountant
For the Appellant

Shri N. Satyanarayanan, Assistant Commissioner (A.R.)
For the Respondent

CORAM:

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

FINAL ORDER NO. 40042/2024

DATE OF HEARING / DECISION : 10.01.2024

Order : [Per Mrs. Sulekha Beevi C.S.]

Brief facts are that the appellant filed refund claim under Notification No. 102/2007-Cus dated 14.9.2007, as amended, for refund of Special Additional Duty (SAD) paid by them at the time of import. The refund to the tune of Rs.75,014/- was rejected by the original authority for the reason that there is no one-to-one correlation of the description of the goods in the Bill of Entry and the commercial invoice. Against such order, the appellant filed appeal before the Commissioner of Customs (Appeals) who vide order impugned herein upheld the same. Hence this appeal.

2. The learned consultant Shri Loknath appeared and argued for the appellant. The conditions in the notification was adverted to by the consultant to submit that for complying with para 2(e)(ii) of the Notification, it is sufficient if the importer furnishes a Chartered Accountant Certificate along with the correlation details. Para 3 of the order passed by the adjudicating authority was adverted to by the learned consultant to submit that the appellant had furnished correlation certificate attested by the Chartered Accountant. In spite of this, the authorities below have held that there is a difference in the description of the goods in the Bill of Entry and the commercial invoice. The learned counsel argued that the description in the Bill of Entry is given in detail for the purpose of payment of duties at the time of import. The commercial invoices are prepared and issued for the party to whom the goods are sold. On bare perusal of these documents, it can be seen that there is no difference in the goods imported and the goods sold. In the Bills of Entry, the entire details of the goods have been described whereas in the commercial invoices it is stated as commercial veneer sheets or core veneer sheets. The learned consultant relied on upon the decision in the case of Johnson Lifts Pvt. Ltd. Vs. Assistant Commissioner of Customs (Refunds), Chenai 2020 (374) ELT 519 (Mad.) to argue that the Hon'ble High

Court in the said case has held that when the Chartered Accountant Certificate has been produced by the importer, the department cannot disbelieve the same without sufficient evidence. It is prayed that the appeal may be allowed.

3. The learned AR Shir N. Satyanaranayan appeared and argued for the department. The findings in the impugned order was reiterated. It is submitted that there is much difference in the description of the goods in the Bill of Entry and the commercial invoices. Para 5 of the order passed by the original authority was adverted to by the learned AR to submit that the authorities below have rightly rejected the refund claim. It is prayed that the appeal may be dismissed.

4. Heard both sides.

5. The authorities below have rejected the refund claim observing that the appellant has not furnished evidence to show one to one correlation of the goods imported and the goods sold. From para 3 of the order passed by the refund sanctioning authority, it is clear that the appellant has furnished correlation certificate attested by the Chartered Accountant. As per the notification, such certificate is to be furnished by the importer to evidence the correlation of the goods imported and sold. There is nothing brought out in evidence that the goods sold are different from that which is imported. The learned AR has adverted to a Table in para 5 of the order passed by the refund sanctioning authority. On perusal of the said Table, we find that in the bills of entry, the appellant has given detailed description of the goods whereas in the commercial invoices, the goods are

described as it is known in commercial parlance. The goods do not have any difference. In our view, when the Chartered Accountant has examined the documents relating to the import as well as the sales as accounted by the appellant and issued correlation certificate, the department cannot deny the refund stating that the said certificate is not valid. In view of the above, we hold that the appellant is eligible for refund.

6. In the result, the impugned order is set aside.

7. The appeal is allowed with consequential reliefs if any.

(Dictated and pronounced in the open court)

(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

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

RKP