IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT NO. III

Customs Appeal No. 41271 of 2014

(Arising out of Order-in-Appeal No. 222/2014 dated 11.02.2014 passed by Commissioner of Customs (Appeals), No. 60, Rajaji Salai, Custom House, Chennai – 600 001)

M/s. Veneer Mills **...Appellant**
Plot No. 1&2,
5th Main Yadavagiri Indl. Estate,
Mysore – 570 020.

Versus

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

APPEARANCE:

For the Appellant : Shri S. Loknath, Consultant

For the Respondent : Shri Harendra Singh Pal, Assistant Commissioner / A.R.

CORAM:

HON'BLE MS. SULEKHA BEEVI C.S., MEMBER (JUDICIAL)
HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)

DATE OF HEARING/ DECISION: 19.02.2024

FINAL ORDER No. 40185 / 2024

Order :-[Per Ms. SULEKHA BEEVI C.S.]

Brief facts are that the appellant filed refund claim under Notification No. 102/2007-Cus. dated 14.09.2007 as amended for refund of Special Additional Duty. The Original Authority rejected the refund claim on the ground that the appellant had not produced the original Bill of Entry for defacement, so as to prevent filing refund claim twice on the same Bill of Entry. Against such order, the appellant filed an appeal before the Commissioner (Appeals) who upheld the same. Hence this appeal.

2. On behalf of the appellant the Ld. Consultant Shri S. Loknath appeared and argued for the appellant. The last Paragraph in the order passed by the Original Authority was adverted to by the Ld. Consultant to submit that the only ground for rejection is that the appellant had not produced the original Bill of Entry for defacement, so as to ensure that there is no duplication on refund claim. The findings of the Commissioner (Appeals) in the impugned order was also adverted to by the Ld. Consultant to submit that the appellant had informed the Commissioner (Appeals) that they would be able to produce the original Bill of Entry, if given a further opportunity. However, it was held that the refund claim cannot be entertained for the reason of non-submission of original copy of the Bill of Entry. The Ld. Consultant submitted that the appellant has copy of the original Bill of Entry and are ready to furnish the same.

3. The Ld. Authorised Representative Shri Harendra Singh Pal appeared for the Department. It is submitted

that if the appellant produces the original copy of the Bill of Entry, the refund claim can be entertained.

4. Heard both sides.

5. The only issue that to be considered is whether the rejection of refund claim for the non-submission of original copy of the Bill of Entry is valid or not.

6. On perusal of records, we find that the appellant has not submitted the original copy of the Bill of Entry while preferring the refund claim. All the other conditions of the Notification are found complied with by the appellant. Taking note of these facts, we are of the opinion that the matter can be remanded to the Original Authority who shall verify the original copy of the Bill of the Entry and consider the refund claim afresh.

7. The impugned order is set aside. The appeal is allowed by way of remand. The Original Authority is directed to dispose consider the matter afresh and pass orders within 30 days from the date of receipt of this order.

(Order dictated and pronounced in open court)

Sd/-
(M. AJIT KUMAR)
MEMBER (TECHNICAL)

Sd/-
(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

MK