CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. III

Customs Appeal No. 42112 of 2014

(Arising out of Order-in-Appeal No.1014/2014 dated 24.06.2014 passed by Commissioner of Customs (Appeals), Chennai)

Pradhin Ltd. ..... **Appellant**
No.54, Old No.61, Sembudoss Street,
Chennai – 600 001.

VERSUS

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

APPEARANCE :

Shri S. Ethunandan Advocate, for the Appellant
Shri Harendra Singh Pal Authorised Representative for the Respondent

CORAM :

HON'BLE MS. SULEKHA BEEVI.C.S., MEMBER (JUDICIAL)

FINAL ORDER No. 40388 of 2024

DATE OF HEARING : 04.04.2024
DATE OF DECISION : 04.04.2024

Per Ms. Sulekha Beevi. C.S

1. Brief facts are that the appellant filed refund claim for refund of Special Additional Duty paid by them at the time of import of goods as under Notification No.102/2007 as amended. The original authorities rejected the refund claim observing that the description of the goods in the bill of entry does not match with the description of goods in the sales invoices. The appellant preferred appeal before

the Commissioner (Appeals) who upheld the order passed by the adjudicating authority. Hence this appeal.

2. The Ld. Counsel Shri. S. Ethunandan appeared and argued for the appellant. It is submitted that the appellant had furnished all the documents along with the refund claim which has been recorded by the adjudicating authority in para 2 of the Order-in-Original. The appellant had produced Chartered Accountant certificate also wherein it has been stated that the goods in the sales invoice co-relate with the documents relating to the import of goods. In spite of furnishing these documents the original authority has rejected the refund claim observing that the description of the goods in the bill of entry is 'HR Plates', where as the description of goods in the sales invoices are shown as 'MS Plates and HR Sheets'. It is submitted by the Ld. Counsel that the description given in the bills of entry are in accordance with the classification adopted for the payment of duty. The description of goods in the sales invoice is more akin to the local use of the goods and these were differentiated as MS Plates and HR Sheets on the basis of the thickness. As there was small variation in the thickness in millimeters, they were described as sheets and plates while selling to local customers. The appellant has produced the correlation statement which would show that the goods imported were sold as per the invoices. The adjudicating authority ought not to have rejected the refund claim. Ld. Counsel prayed that the appeal may be allowed.

3. The Ld. A.R. Shri. Harendera Singh Pal appeared and argued for the department. The findings in the impugned order was reiterated.

4. Heard both sides.

5. The refund claim has been rejected observing that the description of the goods in the bills of entry does not corelate with the description mentioned in the sales invoices. I have perused the description given in the bills of entry as well as the sales invoices. The description of goods in the bills of entry are shown as 'HR Plates'. The description given in some of the sales invoices are 'MS Plates and HR Plates'. The Ld. Counsel has submitted that the description given in the bill of entry is on the basis of classification of the goods for payment of duty. The appellant has described the goods as 'MS Plates' and 'HR Sheets' for the reason that they are known as such in the market on the basis of variation in thickness. I am convinced with the explanation put forward for the variation in the description and is satisfactory. Further, the appellant had produced Chartered Accountant certificate as well as the correlation statements along with the refund claim. In such circumstances the original authority ought not to have denied the refund claim. The Tribunal in the case of Ganesha Impex Vs. Commissioner of Customs (Sea-Import), Chennai 2019 (369) ELT 1402 (Tribunal Chennai) had occasion to consider a similar issue. The Tribunal held that when the documents established that of the goods imported co-related with the invoices, the refund should not be denied on some minor variation in describing the goods. The relevant para reads as under: -

> *5. The two defects pointed out by the department for rejecting the refund claim is that the description of the goods shown in the sales invoices does not tally with the description of the goods in the bill of entry. From the submissions made, it is seen that the description shown in the bill of entry is as per the nature or classification of goods whereas in the sales invoices only grades*

are shown. The department does not have a case that goods were not imported or sold. The sales invoices, Bill of Entry together with Chartered Accountant Certificate is produced by assessee along with refund claim. All these documents 'together would definitely show that there are no discrepancies with the goods sold. The Tribunal in the case of M/s. Precision Informane (M) Pvt. Ltd., (supra) has held that minor discrepancies cannot disentitle the importer from getting benefit of refund.

5.1 The second reason for rejection is that Chartered Accountant's Certificate is not proper for the reason it is issued without verification of the accounts of the appellant. The said notification mandates the furnishing of the certificate issued by a statutory auditor. The department does not have a case that the certificate was not issued by a statutory auditor. There is no evidence to show that the certificate does not correlate with accounts of appellant.

6. After appreciating the facts and following the decision cited supra, I am of the view that the reasons for rejection of refund are unjustified. The impugned order is set aside. The appeal is allowed with consequential reliefs, if any.

6. The Hon'ble jurisdiction of High Court in the case of P.P. Products Ltd., Vs. Commissioner of Customs, Chennai, 2019 (367) ELT 707 (Madras) held that when the CA certificate is produced the same cannot be brushed aside without proper reason. In the present case the adjudicating authority has not put forward any finding as to disregard the CA certificate. In such circumstances the refund claim ought to be allowed. I hold that the appellant is eligible for refund. The impugned order is set aside. The appeal is allowed with consequential relief if any.

(Order dictated and pronounced in the open court on 04.04.2024)

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

psd