CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. III

Customs Appeal No.41393 of 2013

(Arising out of Order-in-Appeal C.Cus.No.591/2013 dated 08.04.2013 passed by Commissioner of Customs (Appeals), 60, Rajaji Salai, Custom House, Chennai 600 001)

M/s.Acropolis Granites Limited **.... Appellant**
6-3-713, G-7, Emerald house,
Amrutha Hills, Panjaguta
Hyderabad-500 082.

VERSUS

The Commissioner of Customs (AIR) **... Respondent**
Airport & Air Cargo, New Custom House,
Meenambakkam, Chennai 600 027.

APPEARANCE :

Shri N. Viswanathan, Advocate, for the Appellant
Shri Anoop Singh, Authorised Representative for the Respondent

CORAM :

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

FINAL ORDER No.40550/2024

DATE OF HEARING : 28.05.2024
DATE OF DECISION : 28.05.2024

Per: Ms. Sulekha Beevi. C.S

Brief facts are that the appellant imported certain materials and cleared them for home consumption against duty free vide Advance License dated 21.06.2002 in terms of Customs Notification No.43/2002 dt. 19.4.2002. The appellant had submitted a bond dt. 18.12.2002 in terms of said notification binding themselves to pay on demand Rs.10,76,256/- which was the duty leviable, but for the exemption, on the imported materials as per the notification. The said notification also stipulated that the appellant has to produce the Export Obligation Discharge Certificate (EODC) to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs within a period of 30 days of the expiry of the period allowed for fulfilment of export obligation. It was noted by the department that the appellant had not furnished the EODC even after expiry of the period allowed for fulfillment of export obligation. The original authority passed Order in Original No.385/2008 dt. 23.12.2008 confirming the duty demand of Rs.9,52,500/- along with interest in consequence of violation of condition No.(vi) of the notification by which the appellant failed to produce the EODC. Against such order, the appellant preferred appeal before the Commissioner (Appeals). However, since the appellant did not comply with the predeposit, the appeal was rejected. Against such order, the appellant is now before the Tribunal.

2. The Ld. Counsel Shri N. Viswanathan argued for the appellant. It is submitted that the appellant filed stay application on 25.05.2013

and interim order was passed by the Tribunal waiving the requirement of predeposit. On merits, the Ld. Counsel submitted that the appellant has been issued Export Obligation Discharge Certificate dt. 13.05.2024 and therefore the duty confirmed by the authorities below cannot sustain. It is prayed that the appeal may be allowed.

3. Ld. A.R Shri Anoop Singh appeared and argued for the Department. The findings in the impugned order were reiterated.

4. Heard both sides.

5. On perusal of the order passed by the original authority, it is seen that the only ground for confirming the duty demand is that the appellant has not produced the EODC. The said certificate is now produced by the appellant . There was only delay in issuing the EODC by the DGFT. Taking note of the fact that the EODC has been issued to the appellant in respect of the Advance Authorization dt. 21.06.2002, we find that the demand of duty and interest cannot sustain. The impugned order passed by the original authority as well as the Commissioner (Appeals) is set aside. The appeal is allowed with consequential reliefs, if any.

(Order dictated and pronounced in the open court)

sd/-	sd/-
(VASA SESHAGIRI RAO)	**(SULEKHA BEEVI. C.S)**
Member (Technical)	Member (Judicial)

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