CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

CHENNAI

REGIONAL BENCH - COURT No. III

Customs Appeal No. 42107 of 2014
(Arising out of Order-in-Appeal No.1114/2014 dated 30.06.2014 passed by Commissioner of Customs (Appeals), Chennai)

M/s. Ashok Leyland Ltd. **...Appellant**
No.1, Guindy, Sardar Patel Road,
Chennai – 600 032.

VERSUS

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

APPEARANCE :

Shri. M. Kannan, Advocate, for the Appellant
Shri. R. Rajaraman, 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.42620/2024

DATE OF HEARING : 04.06.2024
DATE OF DECISION : 04.06.2024

Per Ms. Sulekha Beevi. C.S

The brief facts are that the appellant filed the bill of entry dated 07.05.2012 declaring the goods as Prime Hot Rolled Steel Sheets in coil classifying the goods under CTH 72083610 claiming the benefit of Notification No.12/2012 (@ Sl. No. 334) and Notification No 18/2012 (@ Sl. No. 63). The bill was assessed to duty at the rate of 7.5 % + 12% + 2% + 1% + 4%. Subsequently, the appellant vide letter dated

14.05.2012 addressed the proper officer requesting for cancellation of out of charge for the reason that the correct classification of the goods would be under CTH 72253090 and would have lesser duty structure. The original authority passed order stating that since the out of charge has been given, there cannot be any reassessment. Against such order, the appellant filed appeal before Commissioner (Appeals). The order passed by the original authority was upheld. Aggrieved by such order, the appellant is now before the Tribunal.

2. The Ld. Counsel Shri. M. Kannan appeared and argued for the appellant. Para 6 of the impugned order was adverted to by the Ld. Counsel to submit that the impugned order was not passed by the officer who had heard the case. The hearing of the case was conducted by the predecessor of the Commissioner (Appeals) who passed the impugned order. Since, the Commissioner (Appeals) who has passed the impugned order did not give opportunity for personal hearing to the appellant, the order passed is not valid in the eye of law. It is prayed that the matter may be remanded for fresh consideration.

3. The Ld. AR Shri. R. Rajaraman appeared for the department. The findings in the impugned order was reiterated.

4. Heard both sides.

5. On perusal of impugned order, it is seen that the Commissioner (Appeals) who passed the order has merely reproduced the personal hearing conducted by his predecessor on an earlier date. It is very much evident that the person who has passed the order has not heard

the matter. This is against the principles of natural justice and vitiates the impugned order. We therefore find that the order cannot be sustained and requires to be set aside.

6. In view thereof, the impugned order is set aside. The matter is remanded to the Commissioner (Appeals) who is directed to consider the matter afresh after giving an opportunity of personal hearing to appellant. The appeal is allowed by way of remand. The Commissioner (Appeals) is directed to dispose the matter within a period of three months from the date of communication of this order.

(Order dictated and pronounced in the open court)

(VASA SESHAGIRI RAO)
Member (Technical)

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

psd