CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

COURT NO. 4

CUSTOMS Appeal No. 52919 of 2019

[Arising out of Order-in- Original No 89/MK/Policy/2019 dated 28.08.2019 passed by Commissioner of Customs (Airports & General), New Delhi)

Commissioner of Customs .... **Appellant**
New Customs House
New Delhi

VERSUS

M/s. Dawn Express Courier Del Pvt. Limited .... **Respondent**
783/16, Third Floor, DB Gupta Road
Gali No. 24, Near Main Road, Karol Bagh
New Delhi – 110 005

APPEARANCE :

Shri Shri Sunil Kumar, Authorised Representative for the Appellant-Revenue
Shri Akhil Krishan Maggu, Advocate for the Respondent

CORAM: HON'BLE MR. RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE MR. RAJU, MEMBER (TECHNICAL)

FINAL ORDER NO. 50724/2020

DATE OF HEARING : 21.02.2020
DATE OF DECISION : 22.06.2020

RAMESH NAIR :

This appeal is directed by the Revenue against the impugned order whereby the proposal for revocation of Courier Registration of the appellant was dropped.

2. We have heard both sides and perused the records. We find that without going into details of the entire case, we observe, as per Para 22 of the impugned order, which is reproduced below :

> "**22**. To enquire the status of final verification report in the impugned matter, ACC Export Commissionerate, New Delhi, was requested vide letter dated 5.08.2019, subsequently with reminder dated 21.8.2019 for providing final verification report in the instant matter. Deputy Commissioner of Customs(SIIB), ACC Export, New Delhi, vide letter dated 26.08.2019 has informed that the final verification report is yet to be received from Customs (Prev), Cochin Commissionerate. I find that ACC Export requested Cochin Commissionerate for conducting inquiry in the month of September,2018 and Cochin Commissionerate submitted interim report in the month of November, 2018, but

> final report is still awaited. Proceedings in the instant matter could not put on hold for want of final report for an indefinite period."

From the above Para, it is clear that adjudication order was passed without having final report on record. Learned Commissioner has recorded that final report is awaited.

3. In this position, we are of the view that learned Commissioner should have waited for the final report and then only should have passed the order. Accordingly the matter needs to be reconsidered in the light of final report which might have been received by the learned Commissioner. Meanwhile the Respondents should be allowed to work as Courier till the denovo order is passed by the Commissioner. The appeal is disposed of by way of remand to the Adjudicating Authority for passing fresh order considering the final report. All the issues are kept open. We also note that in case the final report is not received within three months from the date of this order, the Commissioner is free to decide the matter on the basis of records available, without further waiting of final report.

(Pronounced on 22.06.2020_*)*

(Ramesh Nair)
Member (Judicial)

(Raju)
Member (Technical)

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