CUSTOMS EXCISE & SERVICE TAX APPLELLATE TRIBUNAL NEW DELHI.
PRINCIPAL BENCH – COURT NO.II

Customs Appeal No.51015 of 2020-CU(SM)

[Arising out of Order-in-Appeal No.442/2019 dated 14.11.2019 passed by the Commissioner of Customs (Appeals), New Customs House, Near IGI Airport, New Delhi-110 037]

M/s.Gopsons Papers Pvt. Ltd. **Appellant**
Akarshan Bhawan, 4th Floor, 4754/3,
Ansari Road, Daryaganj,
New Delhi.

Versus

Commissioner of Customs, **Responden**
New Customs House,
New Delhi-110 037.

APPEARANCE:

Shri Anurag Kapur and Ms. Sonam Yadav, Advocates for the appellant.
Shri Ravi Kapoor, Authorised Representative for the respondent/Department.

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

FINAL ORDER NO.51938/2021

DATE OF HEARING/DECISION:02.11.2021

ANIL CHOUDHARY:

The only issue in this appeal is the issue of filing of 'Export Obligation Discharge Certificate' with respect to EPCG Authorisation No.0530143767 dated 29.05.2007.

2. The brief facts are that the appellant had imported and cleared capital goods under EPCG Licence No.0530143767 dated 29.05.2007 under Notification No.97/2004-Cus dated 17.09.2004, as amended, at concessional rate of 5% subject to the condition that the Licence Holder shall fulfil the Export Obligation and other conditions prescribed in the said notification, during the validity period of the said licence.

3. As per the conditions of the said notifications, the appellant was required to produce evidence of fulfilment of Export Obligation viz. Export Obligation Discharge Certificate (hereinafter EODC) issued by Licensing Authority, within 30 days of export of each year, from the date of issue of the said licence and where Export Obligation of any particular block is not fulfilled, the importer shall within 3 months for the expiry of said block, pay duties of Customs of an amount equal to that portion of the duties leviable on the goods but for the said exemption, which bears the same proportion as the unfulfilled portion of the Export obligation bears to the total Export Obligation, together with interest at the rate applicable from the date of clearance of goods.

4. However, the appellant failed to produce such Export Obligation Discharge Certificate (EODC) before the proper officer within the prescribed time limit. Hence a show cause notice dated 23.06.2016 was issued to the appellant. The Adjudicating Authority vide the impugned order, ordered to recover customs duty worth Rs.8,24,839/- under Section 143(3) of the Customs Act, 1962 by enforcing the bond (signed by the appellant), and also demanded interest on the amount due from the appellant under Section 28AA of the Act, ibid. The goods imported under EPCG Licence were confiscated under Section 111(o) of the Customs Act and the same were allowed to redeem upon payment of redemption fine of Rs.2,00,000/- under Section 125 of the Act ibid. Besides, a penalty of Rs.1,00,000/- was also imposed under Section 112 respectively of the Customs Act, 1962 upon the appellant.

5. Being aggrieved, the appellant preferred appeal before the Commissioner (Appeals).

6. As the appellant could not produce the EODC till such date when the order-in-appeal was passed on 14.11.2019, the Commissioner (Appeals) was pleased to dismiss the appeal.

7. Heard the parties.

8. From the perusal of the records, I find that the appellant has received redemption letter for the aforementioned EPCG authorisation, being redemption letter no.05/34/021/00187/AM08 dated 23.10.2019 issued by the office of the Additional Director General of Foreign Trade, New Delhi. The appellant approached the office of the ld. Commissioner (Appeals) by letter dated 2.12.2019, annexing the copy of the Export Obligation Discharge Certificate, but the same could not be considered, as the appeal has already been dismissed earlier. Accordingly, the appellant have filed the present appeal.

9. As the EODC has been issued in the meantime, the dispute no longer exists. EODC categorically states that the appellant have met in full their export obligations. Accordingly, this appeal is allowed and the impugned order is set aside. The appellant is entitled to consequential benefit in accordance with law.

[Order dictated & pronounced in open court]

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

Ckp.