CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH-COURT NO. 1

E-HEARING

CUSTOMS APPEAL NO. 53677 OF 2023

[Arising out of Order-in-Appeal No. CC(A)CUS/D-II/Import/ICD/TKD/1407/2022-23 dated 23.01.2023 passed by the Commissioner of Customs (Appeals), New Delhi]

M/S RAMAKRISHNA ELECTRO COMPONENTS PVT LTD **.....APPELLANT**
B-79, Wazipur Industrial Area
New Delhi-110052

Vs.

PRINCIPAL COMMISSIONER OF CUSTOMS-NEW DELHI-ICD TKD **....RESPONDENT**
ICD, Tughlakabad, Import, New Delhi

Appearance:
Present for the Appellant : Shri C. S. Biradar, Advocate
Present for the Respondent: Shri Rakesh Kumar, Authorised Representative

CORAM:
HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P. V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 50638 /2025

DATE OF HEARING/DECISION : 01/05/2025

JUSTICE DILIP GUPTA

1. This appeal is directed against the order dated 23.01.2023 passed by the Commissioner of Customs (Appeals).

2. The issue relates to claim of exemption under serial no. 528C of the Notification No. 50/2017-Cus dated 03.06.2017[1], as

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1 the Exemption Notification

amended from time to from time to time. The relevant portion is reproduced below:

S. No.	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate	Integrated Goods and Services Tax	Condition No.
(1)	(2)	(3)	(4)	(5)	(6)
528C	8507 60 00	All goods other than the following namely:- (i)Goods mentioned against S. Nos. 528A and 528 B; (ii)Power Bank	10%	-	-"

3. The findings recorded by the Commissioner (Appeals) is as follows:

> "Thus, this exemption is available to goods under CTH 85076000 if the same are not power Bank or goods falling under Sl. No. 528A or 528B of the same notification. Sl No. 528A refer to battery for use of electric/hybrid vehicle and Sl. No. 528B refer to lithium battery for cellular mobile phones. The appellant has not produced any documentary evidence about use of impugned goods or about them being not in excluded category of Sl. No. 528C. Thus, it is not possible to ascertain eligibility of the imported goods for claimed exemption and I don't find ground to change the impugned assessment."

4. It is contended by the learned counsel for the appellant that the exemption under Sl. No. 528C of the Exemption Notification would be available to all goods other than the goods mentioned against Sl. No. 528A and 528B and power banks. In the instant case the goods are not covered by Sl. No. 528A and 528B and are not power banks. The Commissioner (Appeals) has observed in the

impugned order that the appellant had not produced documentary evidence to support its case.

5. In the present appeal, the appellant has placed a catalogue of the goods imported. This document, however, was not placed by the appellant before the Commissioner (Appeals).

6. Learned counsel for the appellant has submitted that the matter may be remanded to the Commissioner (Appeals) so that an opportunity is provided to the appellant to lead additional evidence.

7. Shri Rakesh Kumar, learned authorized representative appearing for the department has, however, submitted that it was for the appellant to have produced the relevant document before the Commissioner (Appeals) and having failed to do so, further opportunity should not be granted to the appellant.

8. We have considered the submissions made by the learned counsel for the appellant and the learned authorized representative appearing for the department.

9. We consider it appropriate to remit the matter to the Commissioner (Appeals) as an opportunity can be granted to the appellant to file documents to support its case that it is entitled to exemption. The appellant shall produce additional evidence before the Commissioner (Appeals) within a period of 8 weeks from today and on production of such evidence, the Commissioner (Appeals) shall make all endevours to decide the appeal within a period of four months thereafter.

10. The impugned order dated 23.01.2023, in so far as it relates to denial of Exemption under Sl. No. 528 C of the Notification, is set aside. The appeal is allowed with the aforesaid observations.

(Order dictated and pronounced in open court)

(JUSTICE DILIP GUPTA)
PRESIDENT

(P. V. SUBBA RAO)
MEMBER (TECHNICAL)

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