

West Block No.2, R.K.Puram, New Delhi

Date of hearing/decision: 11.01.2017

[Arising out of the Order-in-Appeal No. CC(A)/D-II/ICD/778/2014 dated 23.12.2014 passed by the Commissioner of Central Excise, New Delhi]

Vs.

C.C.E. New Delhi ... Respondent

Present Shri Kumar Vikram, Advocate for the appellant
Present Ms. Suchitra Sharma, DR for the respondent

**Coram: Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Technical Member**

Per Justice (Dr.) Satish Chandra:

The present appeal is filed against the order in Appeal No. 778/2014 dated 23.12.2014.

2. The brief facts of the case are that the appellant are manufacturer and exporter of Electronic Flex Circuits for domestic and international automobile industries. The appellant has imported and used electronic goods which requires the permission from the Ministry of Environment and Forest under the provision of Hazardous Waste (Management, Handling and Trans boundary Movement) Rules 2008 as per the CBEC Circular No. 27.2011 dated 04.07.2011 on the ground that the imported goods fall under the category of Basel No. B-1110. Vide the impugned order, Commissioner (A) has referred back the

matter to the Original Authority to decide the issue afresh after seeking opinion of the relevant nodal agency.

3. After the four months gap, on 21.04.2015 the Commissioner (A) has issued a corrigendum with the following observation:

"The intention was to remand the case to be reviewed in the light of the discussion under the para 2,3,4 & 5 of the said order in appeal. Hence the decision on dropping of the penalty following discussion in the order in Appeal may be discarded. The oversight and the incongruity in the order are regretted."

4. Thus, there is a contradiction in the impugned order read with the Corrigendum. When it is so, then we are of the view that the matter needs fresh consideration. We set aside the impugned order and remand the matter to the Commissioner (A) to pass fresh order on merit but after providing a reasonable opportunity of hearing to the appellant. Fresh evidence, if need be, may be admitted as per law.

5. In the result, appeal filed by the appellant is allowed by way of remand.

[Dictated and Pronounced in the open court]

(V. Padmanabhan)
Technical Member

(Justice Dr. Satish Chandra)
President

Bhanu