

IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-DB

COURT –III

Customs Appeal No.C/51647/2016-ST [DB]

[Arising out of Order-in-Original No.03/KJ/Pr.Commr./
Aromatech/ 53/2015 dated 25.02.2016 passed by the
Commissioner, Customs Prev. Commissionerate, New Delhi]

Aroma Tech.

...Appellant

Vs.

C.C., Delhi

... Respondent

Present for the Appellant : Mr.J.P. Kaushik, Advocate.

Present for the Respondent: Mr.Yogesh Agarwal, D.R.

Coram: HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. B.RAVICHANDRAN, MEMBER (TECHNICAL)

Date of Hearing/Decision: 25/04/2017

FINAL ORDER NO. 53139/2017

PER: B.RAVICHANDRAN

The appeal is against order dated 24/02/2016 of Assistant Commissioner of Customs, New Delhi. The appellant imported various consignments through inland container depot, Tuglakabad. The proceedings against the appellants were with reference to denial of exemption under Notification No. 21/12 in respect of mobile-phones imported in 15 shipments and regarding mis-declaration of description and value of induction

Cooker. After due enquiry, the matter was adjudicated by the Principal Commissioner by issuing the impugned order. He enhanced the value of imported goods from Rs.29,59,398/- to Rs.41,48,464. He ordered the confiscation of the goods with option to redeem on payment of a fine of Rs.10.00 Lakhs. He confirmed customs duty of Rs.11,37,685/- and also imposed equal amount of penalty in terms of Section 114 A of Customs Act, 1962. He also confirmed additional duty of customs on past imports amounting to Rs.61,65,224/- and further imposed penalty of equivalent amount and further penalty of Rs.61,65,225/-.

2. The Id. Counsel for the appellant restricted his plea only to the effect that the case was adjudicated ex-parte. He noted all the relied upon documents were not supplied to file detailed reply to contest the allegation in the show cause notice. He mainly pleaded for adjudication of case following due process. He claimed that the present order cannot be upheld due to violation of principles of natural justice.

3. The Id.A.R. submitted that from the beginning the appellant was not traceable in the declared addresses and only once he appeared before the Departmental Office, that too as per the directions of Hon'ble Delhi High Court. The show cause notice and relied upon documents were pasted at the two known addresses of the appellant. Now the appellant making a

claim regarding violation of principles of natural justice, is not acceptable.

4. We have heard both the sides and perused the appeal records.

5. Admittedly the case has been decided without recording the defense of the appellant as the appellant did not file any reply nor appeared for personal hearing. The appellant pleaded that once they came to know about the show cause notice, they have requested for relied upon documents, so that they can file their defense against the show cause notices. We note that letters have been issued by the Revenue to the known addresses and the appellant did not take due care in making arrangement for delivery of letters in the given addresses. They have not intimated revised address etc. to the Revenue. However, considering that defense of the appellant has to be considered before finalization of the adjudication, we find it fit and necessary to remand the matter back to the original authority for a fresh adjudication. Noting that on earlier many occasions communications sent to the appellant could not be delivered or the appellant could not be reached easily, we direct the appellant to collect the relied upon documents alongwith other connected records from the Department within 2 weeks of receipt of this order. Thereafter, the appellant should file reply with supporting

documents, if any, within 4 weeks. The Adjudicating Authority may give opportunity of hearing to the appellant and decide the case afresh. The impugned order is set aside and the appeal is disposed of in the above terms.

[Dictated and pronounced in the open Court]

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

Anita