

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing/Decision:10.08.2017

Customs Appeal No.52705/2016 (DB)

[Arising out of Order-in-Appeal No.CC(A)CUS/D-II/ICD TKD (IMP)/469/2016
dated 17.05.2016 passed by the Commissioner of Customs (Appeals), New
Customs House, New Delhi]

M/s.Unison Enterprises

Appellant

Vs.

CC, New Delhi

Respondent

Appearance:

Rep. by Shri Priyadarshi Manish, Advocate for the appellant.

Rep. by Shri S. Nunthuk, DR for the respondent.

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

Final Order No.55895/2017

Per Justice Dr. Satish Chandra

The present appeal is filed against the Order-in-Appeal No.CC(A)CUS/D-II/ICD TKD (IMP)/469/2016 dated 17.05.2016 passed by the Commissioner of Customs (Appeals), New Delhi.

2. The Commissioner (Appeals) in its order has mentioned that :

“the appellant have filed the appeal on 16.02.2015 against the order-in-original passed on 31.03.2014 and they have neither given the certified copy of the O-in-O nor produced any evidence that they had requested the department for the certified copy of O-in-O. Therefore, without going into the merit of the case, I hold that the appeal is time barred.

In view of the above, I reject the appeal filed by the appellant and disposed of the matter accordingly.”

3. Being aggrieved, the appellant filed the present appeal.

4. With this background, Shri Priyadarshi Manish, ld. Counsel submits that he has written a letter to the Department but no reply has been received from them.

5. However, on specific query, it was submitted by the ld. Counsel that the appellants had neither applied for the certified copy of the order-in-original nor produced any evidence that they had requested the Department for the certified copy of order-in-original as per the law.

6. On the other hand, ld. Representative for the Department has justified the impugned order by mentioning that present appeal is defective as per CESTAT Procedure Rules, 1982.

7. After hearing both the parties and on perusal of record, it is evident that appellant never filed order-in-original before the first Appellate Authority, so the appeal was dismissed *in limine*. Even before the Tribunal, the appellants have not filed certified/uncertified copy of the order-in-original. Thus, the appeal is defected as per CESTAT Procedure Rules, 1982.

8. In the result, the appeal is dismissed.

[Order dictated & pronounced in open court]

(Justice Dr. Satish Chandra)
President

(V. Padmanabhan)
Member (Technical)

Ckp.

