CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

COURT-I

Date of hearing: 23.05.2017
Date of pronouncement: 07.09.2017

Appeal No. C/59456/2013, C/50764-50767/2015-CU[DB]
[Arising out of the Order-in-Original No. RT-ACE-185-188-2012 dated 21/06/2012, Order-in-Appeal No. APPL-DLH-CUS-D-I-EXP-1100-1103-2014 dated 31/12/2014, passed by the Commissioner of Central Excise, New Delhi]

M/s. SIS Live ... Appellant

Vs.

C.C.E. New Delhi (Air Cargo Export) ... Respondent

Appearance:
Present Shri Rishi Bhatnagar, Advocate for the appellant
Present Shri R.K. Manjhi, DR for the respondent

Coram: Hon'ble Mr. S.K. Mohanty, Judicial Member
Hon'ble Mr. V. Padmanabhan, Technical Member

FINAL ORDER No. 56464-56468/2017

Per V. Padmanabhan:

The appeals have been filed against the Order-in-Original No. 185-188/2012 dated 21/06/2012 and Order-in-Appeal No. 1100-1103/2014 dated 31/12/2014.

2. The appellant imported various broadcasting equipments in connection with the Common Wealth Games 2010 and filed bills of entry. These five appeals deal with different bills of entry but the issue involved is the same and hence are being decided through this common order.

3. The appellant filed bills of entry for clearance of these broadcasting equipments by claiming the benefit of customs notification no. 13/2010 dated 19.02.2010 which granted

exemption from customs duty when equipments are imported for the purpose of organizing the Common Wealth Games 2010 subject to various conditions specified in the notification. The notification no. 13/2010 was amended by notification no. 84/2010-Cus dated 27.08.2010. The equipments imported by the appellant were required to be re-exported after using the same for the Common Wealth Games 2010. The goods were allowed for clearance by customs upon import and the same were also duly re-exported on completion of the Common Wealth Games 2010.

4. Customs department issued show cause notice no.VIII/6/BOND/FBE/CWG088/2010/1012 dated 28.02.2011 and alleged that the imports of broadcasting equipments by the appellant did not satisfy some of the conditions prescribed in the notification (supra). The matter was adjudicated, which resulted in denial of the benefit of the notification and demand of customs duty along with interest. The importer was also imposed penalty under various sections of the Customs Act 1962. Aggrieved by the impugned order present appeals have been filed.

5. With the above background, we have heard Shri Rishi Bhatnagar, Advocate for the appellant and Shri R.K. Manjhi, DR for the respondent.

6. Heard both the sides and perused the record of the case.

7. Notification no. 13/2010 dated 19.02.2010 as amended by notification no. 84/2010 dated 27.08.2010 allowed duty

free import of various broadcasting equipments subject to the following main conditions:

i) Goods imported by Prasar Bharti suppliers or contractors or vendors or sub-vendors of the Prasar Bharti or of the broadcasting right holders or broadcasting right holders as per agreement between the organizing committee of Games, 2010 and Prasar Bharti in relation to Games 2010.

ii) The importer at the time of clearance of the goods, produces a certificate to the Assistant Commissioner or Deputy Commissioner of Customs, as the case may be, from the Joint Director General (Co-ordination) or Director (Co-ordination) of the Organizing Committee of the Games, 2010, including;-

a. The name and address of the importer and the description, quantity and value of the said goods, and

b. That the said goods are required for the purpose specified in condition (a) above;

iii) The importer, at the time of clearance of goods, furnishes an undertaking that all such goods shall be re-exported within three months from the conclusion of the Games. Provided that in the case of imports by suppliers or contractors or vendors or sub-vendors of the Prasar Bharti or of the broad casting right holders, the Prasar Bharti shall, at the time of clearance of the goods, furnish an undertaking that the imported items other than consumables, shall be re-exported within three months from the conclusion of the Games and shall pay an amount equal to the duty leviable on the imported goods but for the exemption under the notification in the event of its failure to do so.

8. Revenue was of the view that the appellant will not be eligible for the benefit of the notification mainly for the following reasons:

i) At the time of import, undertaking has been furnished by the appellant undertaking re-export of the goods on conclusion of Commonwealth Games. However, since the appellant was working as per the contract awarded to them for coverage and broadcasting of the commonwealth games by Prasar Bharti, Revenue was of the view that the mandatory prescribed undertaking is to be extended not by the appellant but by Prasar Bharti or Organizing Committee of CWG 2010.

ii) The equipments which were to be imported by the appellant were required to be certified by Joint Director (Co-ordination) of the Organizing committee of CWG 2010. However, the appellant has failed to produce such certificate, but has produced the certificate from Director (Engineering) HP CWG Cell Delhi of Doordarshan which was constituted by Prasar Bharti. Accordingly, condition of the notification was not satisfied.

9. The claim of the appellant in the form of grounds of the present appeal are:

i) After issue of notification no. 13/2010 dated 19.02.2010 lot of difficulties were faced obtaining the required certificates from organizing committee as well as from Prasar Bharti which necessitated the issue of circular no. 28/2010 which allowed certain relaxation in the conditions / procedure to expedite clearance of equipments required for conduct of CWG 2010. The relevant notification was also substantially amended vide notification no. 84/2010. The appellant has submitted that after the goods were cleared by the Department after due examination and the goods have been re-exported the Department is stopped from demanding duty on the *doctrine of promissory estoppel*.

ii) Appellant has also claimed that they also submitted the undertakings from the Prasar Bharti subsequently, even thought they filed undertakings signed by themselves initially. Such claim is being denied by Revenue.

iii) There is no justification for denying the benefit of customs duty exemption since the goods have been re-exported after the CWG 2010.

10. The appellant has imported various broadcasting equipments as the sub contractor of Prasar Bharti, for the purpose of using the same for CWG 2010. Revenue has confirmed the customs duty demand against the appellant by

taking a view that the goods were not eligible for the benefit of customs duty exemption since some of the conditions prescribed were not satisfied by the appellant. In particular it has been highlighted that they have failed to produce the certificate from Joint Director General of Organizing Committee of CWG 2010 specifically certifying the list of equipments proposed to be imported. Further, the undertaking which is prescribed in the notification by which the importer undertakes to re-export the goods after conclusion of the CWG 2010 has also been executed by the importer rather than by Prasar Bharti as has been prescribed in the amended notification.

11. The notification has been issued to facilitate import of broadcasting and other equipments for use during the conduct of CWG 2010 to ensure that only appropriate equipments are allowed to be imported. For this purpose it has been prescribed that the list of such equipments needs to be certified by the organizing committee of CWG 2010. From the circular issued by CBEC dated 13.08.2010 it is evident that there was lot of chaos as well as urgency in getting the goods cleared in time for the conduct of CWG 2010. Circular has accordingly related some of the procedure to be followed in Customs House so as to facilitate the quick clearance of such equipments. In any case, we find that the equipments proposed to be imported by the appellant has been duly certified by the Director Engineering of Doordarshan which is a

constituent of Prasar Bharti. It is nobody's case that such broadcasting equipments imported by the appellant has been mis-used or diverted for use other than in the CWG 2010. It is further on record, that all the imported equipments have also been re-exported duly. In view of the above, we find no reason to hold that the appellants are to be made liable to pay customs duty on the imported equipments only for the reason that certificate as required under the notification has not been produced from the appropriate authorities. For the same reason, we also hold that the failure to submit undertaking from Prasar Bharti to re-export the goods also loses its significance in view of the fact that the equipments have been re-exported.

12. In view of the above discussions, we find no justification in the demand of customs duty raised by the adjudicating authority along with imposition of penalty. Hence, the impugned order is set aside and appeals are allowed.

[Pronounced in the open court on 07.09.2017]

(V. Padmanabhan) Technical Member	(S.K. Mohanty) Judicial Member

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