CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing/decision: 08.09.2017

Appeal No. C/50330/2017(DB)

[Arising out of the Order-in-Appeal No. 23/2015/DM/PC/ICD/TKD dated 28/10/2015, passed by the Principal Commissioner of Customs, New Delhi]

M/s D & A Traders … Appellant

Vs.

CC New Delhi … Respondent

Appearance:
Present Mr.Priyadarshni Mahesh, Advocate for the appellant
Present Mr. S. Nunthuk, DR for the respondent

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

FINAL ORDER No. 56648/2017

Per Justice Dr. Satish Chandra

1. The present appeal is against Order in Appeal No. 23/2015 dated 28/10/2015
2. The brief facts of the case are that B.E. No. 2107123 dated 01/08/2015 was filed for goods imported from China wherein goods were declared as electrical goods. The container was of declared weight of 15950 Kgs but it was found that weight was 27030 Kgs. So, the container was examined and goods were found misdeclared in description and quantities. On the basis of the NIDB data and market inquiry the valuation was made. Difference of duty was demanded along with the interest and goods were confiscated and allowed for redemption. Being aggrieved the appellant has filed the present appeal.

3. With this background heard Shri Priyadarshi Mahesh and Shri S. Nunthuk, Ld Counsels for the parties.
4. After hearing both the parties and on perusal of record it appears that the redemption fine was paid and goods were released. Now goods are not available so there is no question of remand of the matter to re-determine the valuation. No useful purpose will be served. From the record, it appears that there was a difference of weight, description and hence valuation. The valuation was done by the department in the instant case on the basis of NIDB data and market enquiry. When it is so, then we find no reason to interfere with the impugned order passed by the Commissioner. Hence, the difference of the duty demanded by the department is justified and the same is hereby sustained. The redemption fine cannot be said to be excessive and hence upheld. However, regarding the penalty imposed, by applying the doctrine of equity, justice and good conscious, we modify the impugned order and reduce the penalty to Rs. 4 Lakhs. The appellant will get the relief of Rs. 4 Lakhs from the impugned order.112(a)
5. In the result, the appeal filed by the appellant is partly allowed.

[Order Dictated and Pronounced in the open court]

(V Padmanabhan)
Member (Technical)

(Justice Dr Satish Chandra)
President

Rekha