CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. 1

Date of hearing/decision: 25.09. 2017

Customs Appeal No. 52578 of 2016
(Arising out of order-in-original No. SRB/COMM/ACE/12/2016 dated 14.06.2016 passed by the Commissioner of Customs, Air Cargo (Export), New Delhi).

M/s Oriflame India (P) Limited Appellant

Vs.

CC, New Delhi Respondent

Appearance:

Sh. Abhinav Jaganathan, Advocate for the assessee
Sh. Govind Dixit, A. R. for the Revenue

Coram:

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

Final Order No. 56804/2017

Per: **Justice (Dr.) Satish Chandra**:

The present appeal is filed against the order-in-original No. SRB/COMM/ACE/12/2016 dated 14.06.2016 passed by the Commissioner of Customs, Air Cargo (Export), New Delhi. The period of dispute is April 2007 to June, 2009.

2. Brief facts of the case are that the appellant got six advance licences from the DGFT for import of duty free raw material. Regarding the obligation, the appellant could not obtain the certificate of Export Obligation Discharge Certificate (EODC). So, the duty was demanded. Being aggrieved, the appellant

filed the appeal before the Tribunal who vide its Final Order No. 54140 - 54143/2014 dated 21.10.2014 has remanded the matter to the adjudicating authority to re-decide the issue after receiving a response from the DGFT authorities.

3. The adjudicating authority in pursuance to the direction of the Hon'ble Tribunal has again remanded the matter pertaining to the two advance licence as the appellant had submitted the EODC for the earlier four advance licence. So, this is the second round of litigation.

4. With this background, we heard Abhinav Jaganathan, ld. Advocate for the appellant who submits that regarding the two advance licence issued, the appellant had approached the DGFT who rejected the case of the appellant. Being aggrieved, the appellant has filed the appeal before the Policy Relaxation Committee (PRC) who in its meeting dated 31.08.2017 (Item No. 24) has taken the cognizance of the appellant's application wherein certain conditions were imposed and matter was referred to the DGFT. He submits that the matter is still pending before the DGFT.

5. On the other hand, Sh. Govind Dixit, ld. AR for the Revenue submits that the Policy Relaxation Committee has laid down six conditions to refer the matter to the DGFT. The sixth condition is pertaining to –

> *"No adjudication order has been .passed by the Customs/ R.A. against any of the authorisation in question*".

6. It is the submission of the ld. AR appearing for the Revenue that the Commissioner has already adjudicated the matter. So, this is wrong statement and correct position perhaps was not furnished before the PRC.

7. After hearing both the parties and on perusal of record, it appears that the PRC has referred the matter to the DGFT that certain conditions which will have to be examined by the DGFT. To examine the validity of the condition, it is for the DGFT to take appropriate action. When matter is pending before the DGFT and no action is taken, in the interest of justice, we grant liberty to the appellant to come again within a period of four months, if advice so.

8. With the aforesaid liberty, the appeal is disposed of.

(Dictated and pronounced in the open Court).

(V. Padmanabhan)
Member (Technical)

(Justice (Dr.) Satish Chandra)
President

Pant