Customs Appeal No.55581/2013-CU(DB)

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

Date of Hearing/Decision:22.09.2017

Customs Appeal No.55581/2013-CU(DB)

[Arising out of Order-in-Original No.15/RKB/CC/NCH/2012 dated 25.09.2012 passed by the Commissioner of Customs, ICD, TKD, New Delhi]

CC, New Delhi (ICD TKD) Appellants

Vs.

Shri Manoj Kumar Respondent

Appearance:

Rep. by Shri R.K. Manjhi, DR for the appellant.
Rep. by none for the respondent.

Coram: Hon'ble Shri S. K. Mohanty, Member (Judicial)
Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No. 58098/2017

Per S.K. Mohanty:

Head the ld. DR for Revenue. None appeared for the respondent, despite notice.

2. Revenue has filed this appeal on the ground that the Commissioner (Appeal) has no powers under the statutory provisions to remand the matter to the original authority for a fresh fact finding. Thus, in remanding the matter, without deciding the issued by himself, the ld. Commissioner (Appeals) has travelled beyond the dictates of the statue.

3. On analysis of the Customs statue, we find that the proper officer is only competent to pass the speaking order in respect of assessment of the rate of duty

or change in the classification of imported goods. In this case, it is an admitted fact that the proper officer, the adjudicating authority has not accepted the particulars finished by the appellant for the purpose of assessment of the correct duty liability. Thus, considering the issue, the Commissioner (Appeals) has rightly remanded the matter to the proper officer for fresh adjudication. Even otherwise, considering that though the Commissioner (Appeals) has not power to remand and the Tribunal has not restrictions in doing so, we feel it proper and appropriate to remand the matter to the proper officer for a proper fact finding on the issue involved in this case.

4. Therefore, after setting aside the impugned order, we remand the matter to the Original Authority for passing appropriate order as contemplated in Section 17 of the Act.

5. In result, the appeal is allowed by way of remand to the original authority. The stay application stands disposed of.

[order dictated & pronounced in open court]

(S.K. Mohanty)
Member (Judicial)

(B. Ravichandran)
Member (Technical)

Ckp.