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

Date of Hearing/Decision:22.09.2017

Customs Stay Application No.50729/2017 and in
Appeal No.C/51497/2017 –CU(DB)

[Arising out of Order-in-Appeal No.CC(A)CUS/D-II/ICD/TKD/(Imp)/471/2017 dated 19.07.2017 passed by the Commissioner of Customs (Appeals), New Customs House, New Delhi]

CC, New Delhi (ICD TKD) (Import) Appellants

Vs.

S.R. International Respondent

Appearance:

Rep. by Shri P. Juneja, 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.58105/2017

Per S.K. Mohanty:

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

2. Revenue has filed this stay application, seeking stay of operation of the impugned order dated 19.07.2017 passed by the Commissioner of Customs, New

Delhi. On perusal of the stay application, we do not find any justifiable reason in favour of Revenue, for staying the operation of impugned order. Thus, the stay application is dismissed. With the consent of the ld. DR, the appeal is taken up for hearing today.

3. The Commissioner (Appeals) has allowed the appeal of the respondent herein and remanded the matter to the Assessing Authority for passing a speaking order under the provisions of Section 17 of the Customs Act, 1962. Revenue's contention in this appeal is that the Commissioner (Appeals) has no power to remand the matter to the Assessing Authority and he has to decide the issue by himself.

4. Sub-section (5) of Section 17 of the Customs Act, 1962 provides for passing of speaking order by the proper officer, if the re-assessment done is contrary to the self-assessment done by the importer or exporter. In this case, since no speaking order was passed by the proper officer, the ld. Commissioner (Appeals) has remanded the matter to him for a speaking order. Though the Commissioner (Appeals) has no power to remand the case, but this Tribunal has powers to remand the matter to the Original Authority for proper compliance of the statutory provisions. Therefore, we are remanding the matter to the Original Authority for

passing a speaking order under Section 17 ibid. The appeal is allowed by way of remand.

[order dictated & pronounced in open court]

(S.K. Mohanty)
Member (Judicial)

(B. Ravichandran)
Member (Technical)

Ckp.