

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

Date of Hearing/Decision:05/12/2017

Customs Appeal No.339/2011

[Arising out of Order-in-Appeal No.CC(A)Cus./ICD/96/2011 dated 18.03.2011
passed by the Commissioner of Customs (Appeals), New Delhi]

M/s. Oriental Trimex Ltd.

Appellant

Vs.

CC, New Delhi

Respondent

Appearance:

Rep. by Shri Jatin Singhal, Advocate for the appellant.

Rep. by Shri R.K. Majhi, AR for the respondent.

Coram: Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. B. Ravichandran, Member (Technical)

Final Order No.58271/2017

Per B. Ravichandran:

The short point involved in the present appeal against the impugned order by Commissioner (Appeals) is the question of limitation invoked for rejecting the appeal of the appellant on the ground that it is filed beyond 60 days, which is prescribed under Section 128 of the Customs Act, 1962.

2. Ld. Counsel for the appellant submits that the original order appears to have been despatched only on 7.10.2010. The Commissioner (Appeals) cannot take the date of original order as the dispatch date. He submitted that the very same impugned order was challenged in another appeal by the appellant. The Tribunal vide Final Order No.51961/2016 dated 1.6.2016 remanded the matter to the Commissioner (Appeals) to examine the claims of the appellants with reference to

actual date of dispatch with supporting evidences. In the present case also, we note that the same order-in-appeal along with the same plea is before us.

3. Accordingly, following the earlier decision of the Tribunal in similar set of facts against the same order, we set aside the impugned order and remand the matter to the Commissioner (Appeals) for a fresh decision regarding admissibility of appeal and the claim of the appellant regarding actual date of receipt of the original order. The appeal is allowed by way of remand. The appellant shall be provided adequate opportunity to submit their side of the case.

[Order dictated & pronounced in open court]

(Justice Dr. Satish Chandra)
President

(B. Ravichandran)
Member (Technical)

Ckp.