CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Customs Appeal Nos. 51937 to 51939 of 2017

(Arising out of Order-in-Original No. 08/NKU(09)ADG(Adj.)/DRI/New Delhi/2-17-18 dated 08.09.2017 passed by the Additional DG (Adj.), DRI, New Delhi)

DATE OF HEARING : 23.01.2018
DATE OF DECISION : 23.01.2018

Commissioner of Customs (Import), New Delhi …..Appellant
(Rep. by Sh. R.K. Manjhi, DR)

VERSUS

M/s Krishna International ..…Respondents
M/s Naina Fabrics (Rep by Ms. Raj Rajeshwari, Adv)
M/s Vaishno Enterprises

CORAM : **HON'BLE MR. JUSTICE (DR.) SATISH CHANDRA, PRESIDENT**
HON'BLE MR. V. PADMANABHAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 50346-50348/2018

PER JUSTICE (Dr.) SATISH CHANDRA :

All these appeals are filed by the Revenue against the Order-in-Original No. 08/NKU(09)ADG(Adj.)/DRI/New Delhi/2-17-18 dated 08.09.2017 passed by the Additional DG (Adj.), Directorate of Revenue Intelligence, New Delhi. The only issue involved in these appeals is, penalties under Section 114AA have not been imposed, though by the impugned order penalties under Section 112(a) have already been imposed under Customs Act, 1962.

2. Heard Shri R.K. Manjhi, learned DR for the Revenue and Ms. Raj Rajeshwari, learned counsel for the assessee-Respondents.

3. After hearing both sides and on perusal of the material available on record, it appears that the adjudicating authority has already demanded the Customs duty and also levied various penalties on the main noticee. For other noticees, the declared asseassable value was also enhanced and difference of Customs duty of Rs. 8,95,79,005/- was demanded from the main noticee. In addition, equal penalties from the main noticee and other co-noticees were demanded.

4. By considering the totality of the facts and circumstances of the case, we are of the view that the penalty under Section 114AA is discretionary. When various penalties were levied by the adjudicating authority, then it is neither mandatory nor desirable to levy the penalty under Section 114AA of the Customs Act, 1962. On the whole, in the peculiar facts and circumstances of the case, the impugned order appears reasonable whereby the Customs duty along with various penalties were demanded.

5. In the result, all the appeals filed by the Department are dismissed.

(Dictated & pronounced in the open court)

(JUSTICE DR. SATISH CHANDRA)
PRESIDENT

(V. PADMANABHAN)
MEMBER (TECHNICAL)

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