IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. IV

Customs Appeal No. 51097 of 2018

[Arising out of Order-In-Appeal No. CC(A)CUS/D-II/ ICDTKD/IMPORT/1485/2017 dated 04.12.2017 passed by Commissioner of Customs (Appeals), New Delhi]

M/s. Evolution Overseas. **Appellants**

Vs.

Commissioner of Central Excise **Respondent**
Delhi

Appearance:
Shri Tarun Chawla, Advocate for the Appellants
Shri H C Saini, AR for the Respondent

CORAM:

Hon'ble Shri Ashok Jindal, Member (Judicial)

Date of Hearing /decision: 26.06.2018

FINAL ORDER NO. 52311 /2018

Per Ashok Jindal :

The appellant is in appeal against the impugned order wherein the redemption fine and penalties have been imposed on them with direction to re-export the goods.

2. The facts of the case are that the appellant filed Bill of Entry for clearance of goods declared as Nutritional Supplements of various types. As the appellant could not settle the payment issues with the foreign supplier, therefore, appellant prayed for re-export of the said goods. The said goods were allowed to be re-exported but as the appellant could not get the necessary certification from FSSAI, therefore, they could not re-export the said goods. Re-export of the goods was allowed on payment of redemption fine of Rs.5 lakh and penalty of Rs.2 lakh were imposed.

3. Against the said order the appellant is before me

4. The learned Counsel for the appellant submit that as there was no mis-declaration with regard to description, value, quantity of goods and goods have not been cleared for home consumption. Therefore, there was no requirement for compliance of FSSAI regulation. In that circumstances, Redemption fine and penalty cannot be imposed on them.

5. On the other hand, learned AR opposed the contention of the leaned Counsel and submits that the appellant has filed Bill of Entry for clearance of the goods in question. In these circumstances, Redemption fine and penalty were rightly imposed.

6. Heard the parties and considered the submissions.

7. The sole contention of the appellant is that the goods were not cleared for home consumption. Therefore, there was no requirement for compliance of the Food Quality Regulation. As the appellant has filed Bill of Entry for clearance of the said goods, in that circumstances, the appellant was willing to re-import the goods for home consumption but failed to produce certification from FSSAI. In that circumstances, the goods are rightly confiscated. Therefore. Redemption fine and penalty were rightly imposed on the appellant. Further, I consider that the redemption fine and penalty imposed on the appellant are on the higher side, therefore, the Redemption fine is reduced to Rs.2,00,000/- (Rupees Two lakh only) and the penalty is reduced to Rs. 1,00,000/- (Rupees One lakh only).

8. In these terms, appeal is disposed of.

(pronounced in the open court)

(Ashok Jindal)
Member(Judicial)

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