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

Date of Hearing/ Decision: 03.01.2019

Appeal No. C/2426-2429/2012-DB
[Arising out of Order-in-Appeal No. OIA-CCA/CUS/I&G/85-88/2012 dated 30/03/2012 passed by Commissioner of CUSTOMS-DELHI - I(Appeal)]

Pci Limited Appellants

Vs.

C.C.-New Delhi (import & General) Respondent

Appearance:
Shri Davender Singh, DR for the Appellant
Shri Sunil Kumar, Advocate for the Respondent

CORAM:
Hon'ble Shri Anil Choudhary, Member (Judicial)
Hon'ble Shri Bijay Kumar, Member (Technical)

FINAL ORDER No. 50041-50044/2019

Per Bijay Kumar:

1. All the appeals have been filed against the impugned orders No. CCA/CUS/I&G/85-88/2012 dated 30/03/2012 passed by Ld. Commissioner (Appeal), CC Delhi-I wherein he has upheld the order passed by the Original Adjudicating Authority regarding adjudication of the refund claim filed by the appellant with respect to SAD in terms of Notification No 102/2007-cus dated 14.09.2007

2. Heard the parties and perused the case records.

3. It is the submission of Ld. Advocate on behalf of the appellant that major item for which the refund has been claimed under the above notification is pertaining to 'static convertor' imported by them by way of various entries

during the relevant time. The Ld. Adjudicating Authority has rejected the refund claim availed by the appellant on the ground there is mismatch in their invoice produced along with appeals in respect of bills of entries at the time of clearance of goods vis-a-vis those issued at the time of sale of the good by the importer. It has been brought to our notice that there are some mismatch in the invoices but the S. No. of all these static convertor has been clearly mentioned in the sales invoice which is matching with those used at the time of import of the goods. Under circumstances we feel that the substantial condition regarding the identity of the goods have been established as the Sr. No. of the goods remained same.

4. The Ld. AR on behalf of the Revenue submits that in these cases, the appellant failed to produce the triplicate copies of bill of entry, the sales invoice indicating that the VAT has been paid at the time of sale of the goods and the same is required to be made by the appellant while claiming the refund.

5. After hearing the parties and perusal of the record we find that in the cases Sr. No. of items would match along with the other relevant entries. In the circumstances we set aside the impugned order and allow the appeal by way of remand to the Original Adjudicating Authority to verify the identity of goods as per serial number. The appellant is also directed to produce the triplicate copy of the bill of entry (in original/certified one) as per the direction along with the other supporting documents establishing a clear identity of the goods for which the refund has been claimed with respect to the import documents.

6. In view of the above we set aside the impugned order and allow by way of remand to the Original Adjudicating Authority. The entire proceedings should be completed within three months of the receipt of this order.

(Order dictated & pronounced in the open court)

Anil Choudhary
Member (Judicial)

(Bijay Kumar)
Member (Technical)

Rekha