CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

NEW DELHI.

PRINCIPAL BENCH - COURT NO. II

Customs Appeal No. 51530 of 2017

(Arising out of Order-in-original No. DLI/CUSTOM/ PRE/MKV/ PR. COMMR/ 11/2017 Dated 18.05.2017 passed by the Principal Commissioner of Customs (Prev.) New Delhi).

Navin Kumpawat **Appellant**
Sevak Road
Opposite Tarai Blook Bank
Jyoti Nogar, 2 ½ Mile Check Post
Siliguri, West Bengal.

VERSUS

Pr. Commissioner of Customs (Prev.) **Respondent**
New Customs House,
Near IGI Airport, New Delhi-110037.

AND

Customs Appeal No. 50911 of 2018

(Arising out of order in original No. DLI/CUSTOM/ PRE/MKV/ PR. COMMR/ 11/2017 Dated 18.05.2017 passed by the Principal Commissioner of Customs (Prev.) New Delhi).

Rajesh Kumar Goyal **Appellant**
S/o Sh. Bajrang Lal Goyal
R/o H. No. B-8/38-39, Block B-8
Sector-5, Rohini
Delhi-110085

VERSUS

Pr. Commissioner of Customs (Prev.) **Respondent**
New Customs House
Near IGI Airport, New Delhi-110037.

APPEARANCE:

Sh. G. K. Sarkar & Sh. Prashant Srivastava, Advocates for the appellant
Sh. Sunil Kumar, Authorised Representative for the respondent

CORAM: HON'BLE MS. ARCHANA WADHWA, MEMBER (JUDICIAL)
HON'BLE MR. BIJAY KUMAR, MEMBER (TECHNICAL)

DATE OF HEARING: 06.05.2019
DATE OF DECISION: 06.05.2019

FINAL ORDER NOs. 50654 – 50655/2019

ARCHANA WADHWA:

After hearing both sides, we find that vide interim order No. 30-31/2018 dated 04.06.2018, the Bench directed the Revenue to supply copy of Relied Upon Documents (RUDs)/ Non-Relied Upon Documents to the appellant. For better appreciation para 3 of the said order is reproduced below:-

> "3. After hearing both sides and on perusal of the material available on record, we are satisfied that some of the documents are yet to be delivered to the Appellants. In these circumstances, we direct the learned Counsels for the Appellants to give a list of their Relied upon Documents (RUDs)/ Non-Relied Upon Documents, which they require for the purpose of making a proper representation within a period of one week. The learned DR for the Revenue shall acknowledge the receipt of such request and thereafter ensure the delivery of the documents to the learned Counsels for the Appellants within the next three weeks from the date of receipt of written request".

2. Learned Advocate appearing for the appellant fairly agrees that all the documents have been received by them except Sl. No. C&D of the list prepared by them. Learned Departmental Representative for the Revenue submits that these documents were given to the appellant and only requisition against Sl. No. G which is a vague requisition seeking copies of all the documents furnished in response to communication issued by DRI to authorised person is involved. He submits that it is neither possible nor practicable to given all these communications in the absence of specific reference to the same.

3. We find that admittedly the adjudication has taken place in the absence of the said order which the earlier Bench of the Tribunal

directed to provide documents to the appellant. The same stand provided except a few, for which the appellant can make request to the adjudicating authority. We are of the view that the matter requires fresh adjudication, in the light of the documents now provided to the appellant. Accordingly, we set aside the impugned order and remand the matter with liberty to the appellant to file further defence reply before the adjudicating authority. The request for supply of documents mentioned against Sl. No. C & D would also be made available to the adjudicating authority. The appeals are allowed by way of remand. We make it clear that as the matter is quite old, the fresh adjudication would be completed as soon as possible and within a period of three months from the date of receipt of copy of this order.

(Dictated and pronounced in open Court).

(Archana Wadhwa)
Member (Judicial)

(**Bijay Kumar**)
Member (Technical)

Pant