CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD
Single Member Bench
Court – I

<u>Appeals No. C/30020/2018 & C30021/2018</u>
(Arising out of Order-in-Appeal No. HYD-CUS-000-APP-083 & 084-17-18, dated 28.08.2017 passed by CCCE, Hyderabad)

C F I Copiers Pvt. Ltd .. **Appellant**

Vs.

CCT, Hyderabad GST .. **Respondent**

Appearance
Shri B. Venugopal, Advocate for the Appellant.
Shri P.S. Reddy, Asst.Commissioner /AR for the Respondent.

Coram:
Hon'ble Mr. M.V. Ravindran, MEMBER (JUDICIAL)

Date of Hearing: 06.09.2018
Date of Decision: 06.09.2018

<u>FINAL ORDER No. A/31188 – 31189/2018</u>

[Order per: Mr. M.V. Ravindran]

1. These two appeals are directed against Order-in-Appeal No. HYD-CUS-000-APP-083 & 084-17-18, dated 28.08.2017.

2. Heard both sides and perused the records.

3. The appellant herein had imported used multi functional photocopier machines without any licence. The said photocopier machines were seized and appellants were directed to file a reply as to why the value declared by them of the said goods be not rejected and the same may be confiscated for violation of non production of licence, as required for import of old and used multi functional photocopier machines. Appellant explained and sought for revaluation of the machines from Custom approved Chartered Engineers and the valuation in both the cases was enhanced from approximately Rs.12.00 lakhs to Rs. 21.96 lakhs and Rs. 23.42 lakhs. Appellant accepted the valuation and paid appropriate customs duty. The adjudicating authority as well as the first appellate authority have come to a conclusion that the machines have been imported in violation of the conditions of non production of licence and also mis-declaration of value, hence liable for confiscation. Adjudicating authority also recorded that appellant being a regular importer, has been repeatedly importing the old and used photocopier machines without producing licence as required under the Foreign Trade Policy, should be penalised. Accordingly, he imposed redemption fine of 25% ad penalty of 15% of the enhanced value and the first appellate authority agreed with the same.

4. It is the argument of Ld. Counsel that the Tribunal has ordered that redemption fine and penalty should be fixed at 10% and 5% respectively on the enhanced value in various cases which applies in the case in hand.

5. Ld. DR on the other hand submits that the ratio of the orders of other Benches can not be applied in the case in hand as imported photocopier machines were violating the provisions of Foreign Trade Policy and this is the fourth time such imports are made, and earlier also the appellant was penalised as per the orders of the Tribunal. Therefore, redemption fine imposed and penalty was correct.

6. On careful consideration, I find that there is no dispute that the said photocopier machines are imported violating the provisions of Import Export Policy and not producing the licence for import of old used photocopier machines. To that extent, I upheld the orders of the lower authorities that the photocopier machines are liable for confiscation. I find that Hon'ble High Court of Punjab & Haryana in the case of Bhagwan Elector Photocopiers [2017(346) E.L.T 565 (P&H)] and in the case of National copier Equipments vs. CCE [2015(320) E.L.T. 353 (P&H) has felt that redemption fine against confiscation for the regular violators as 20% of the enhanced value of the photocopier machines. Following the ratio of the judgment of Hon'ble High Court of Punjab & Haryana, I hold that appellant is required to pay redemption fine in both the appeals @ 20% of the enhanced value of the photocopier machines. Coming to the penalty imposed, in my considered view, ends of natural justice would be met, if penalty is restricted to 10% of the enhanced value of the photocopier machines.

7. Both the appeals are disposed of, modifying impugned orders as indicated herein above.

(Dictated and Pronounced in open Court)

(M.V. RAVINDRAN)
MEMBER (JUDICIAL)

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