CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH REGIONAL BENCH AT HYDERABAD
BENCH - DB
COURT - I

Appeal(s) Involved:

C/1342/2011-DB

(Arising out of Order-in-Appeal No. 08-2011 dated 18/03/2011 passed by Commissioner of Customs, Hyderabad)

Sri Sai Graphics Appellant(s)

Versus

Commissioner of Customs, HYDERABAD Respondent(s)

Appearance:

Ms Siri Reddy, Adv for the Appellant.

Mr Bhanu Kiran, A.R.for the Respondent.

CORAM:

HON'BLE Mr. M.V.Ravindran, MEMBER (JUDICIAL)
HON'BLE Mr. P. Venkata Subba Rao, MEMBER (TECHNICAL)

Date of Hearing: 11/01/2019
Date of Decision: 11/01/2019

Final Order No. A/ 30040 / 2019

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

This appeal is filed against order-in-appeal No. 08-2011 dated 18/03/2011.

2. Appellant herein had imported multi functional copiers and declared the same in the Bill of Entry. Revenue authorities were of the view that these imports cannot be classified as multi-functional copiers but have to be considered as photocopiers as it would include multi-functional copiers and

since these were second hand photocopiers they are liable for duty under Tariff Heading No. 84433930 while the claim of the appellant is that these goods would fall under 84433100. Both the lower authorities held against the appellant and confiscated the goods, allowing redemption thereof on payment of redemption fine and also imposed penalties. Learned counsel submits that identical issue of the very same appellant was before the Bench in Final Order No. A/30035-30037/2016 dated 20.01.2016. It is her submission that multifunctional photocopiers were imported prior to 05.06.2012 and they are not covered under the Chapter Heading of Photocopiers as has been held by the Tribunal in the said Final Order dated 20.01.2016.

3. Learned A.R. on the other hand submits that this plea is being taken for the first time before the Tribunal and not taken before the lower authorities, hence should be considered or not is a question. It is his further submission that the appellants have been importing these photocopier machines and classifying them as multifunctional copiers which is incorrect.

4. On a careful consideration of the submissions made by both sides, we find that the issue is correctly stated by both sides; whether prior to 05.06.2012, multi-functional photocopiers could be classified as photocopiers or otherwise and whether the same were restricted or otherwise. We find that prior to 05.06.2012 photocopiers (second hand) were restricted items and required license to import, while there was no such restriction for multi-functional copiers. This finding is recorded by the Bench in the appellant's own case in Final Order dated 20.01.2016 wherein in paragraph No. 8, the Bench recorded why this view is taken. We do not find any reason to

deviate from such a view already taken. On a specific query from the Bench, learned counsel brings to our notice that the consignment in this case was also subject to valuation report by a Chartered Engineer and they are not contesting the valuation.

5. In view of the foregoing, following the ratio/view of this Bench, we hold that the impugned order is unsustainable and liable to be set aside.

6. The impugned order is set aside and the appeal is allowed to the extent it is contested in this appeal.

(Order pronounced and dictated in open court)

P. Venkata Subba Rao
MEMBER (TECHNICAL)

M.V.Ravindran
MEMBER (JUDICIAL)

Neela Reddy