CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL REGIONAL BENCH AT HYDERABAD

Division Bench
Court – I

Application No. C/ROA/30230/2019
in Customs Appeal No. 2734/2010

(Arising out of Order-in-Original No. 57/2010 (V) CH dt.03.11.2010 passed by CCCE & ST (Appeals), Visakhapatnam)

Commissioner of Customs & Service Tax,
Visakhapatnam - CUS **......Appellant**
4th Floor, Customs House, Port Area,
Visakhapatnam, AP – 530 035

VERSUS

Coromandel International Ltd
1-2-10, Sardar Patel Road, Coromandel House, **......Respondent**
Secunderabad – 530 012

Appearance
Shri B. Gunaranjan, AR for the Appellant.
Shri Karan Talwar, Advocate for the Respondent.

Coram:
HON'BLE MRS. SULEKHA BEEVI C.S., MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER No. A/31006/2019

Date of Hearing: 24.10.2019
Date of Decision: 24.10.2019

[Order per: Bench]

1. The above application for restoration of appeal has been filed by the department seeking to restore the appeal that was dismissed on monetary limits on 08.10.2018. It is submitted by the learned AR Shri B. Gunaranjan that the Tribunal had dismissed the appeal observing that the monetary limit was less than Rs.50,00,000/-. As per the revised circular the said monetary limit is not applicable to customs cases. Hence, he pleaded that the appeal may be restored to the files of the Tribunal.

2. Learned counsel Shri Karan Talwar appeared on behalf of the respondent. He submitted that he has no objection in restoring the appeals to the files of the Tribunal. That however, the issue stands decided in favour of the assessee in various Tribunal decisions.

3. After hearing the submissions made by both sides, we find that the appeal has been dismissed by wrongly applying the revised circular on monetary limits. Hence, it is required to restore the appeal to the files of the Tribunal which we hereby do. The ROA application is allowed.

4. After hearing the submissions and perusal of records and obtaining the consent of both sides, we are of the opinion that since the issue stands covered by various decisions, the appeal itself can be heard and disposed of. The issue is with regard to the classification of Mono Pottasium Phosphate imported by the assessee. The Tribunal has held in the cases of Vardhaman Fertilizers & Seeds Pvt Ltd vs CC, Pune [2017 (345) ELT 560 (Tri-Mumbai)], CC, Nhava Sheva vs Solufeed Plant Product & Services P Ltd [2018 (364) ELT 999 (Tri-Mumbai)], CC, Nhava Sheva vs Deepak Agro Solutions Ltd [2018 (3) TMI 1256 (Tri-Mumbai)] and CCE, Thane-I vs Tinco Chemicals [2019 (365) ELT 838 (Tri-Mumbai)] that the said goods merit classification under sub-heading 3105.06. Following the above said decisions, we are of the view that the appeal filed by the department is without merits. The same is dismissed.

(Dictated and pronounced in open court)

(SULEKHA BEEVI C.S)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

Veda