CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD

REGIONAL BENCH

Customs Appeal No. 2577 of 2012

(Arising out of Order-in-Appeal No. 40/2012 (VCH)/ dated 28.06.2012 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals) Visakhapatnam)

M/s Ardee Business Pvt Ltd **...Appellant**
S-III, 25 & 26, Kalunga Industrial Estate,
Kalunga-770 031, Orissa

Verses

The Commissioner of Customs Central Excise & Service Tax **...Respondent**
Central Excise building, Port Area,
Visakhapatnam -530 035

APPEARANCE:
None for the appellant
Mr V. Srikant Rao, A.R. for the Respondent

CORAM:
HON'BLE MR R. MURALIDHAR, MEMBER(JUDICIAL)
HON'BLE MR A.K. JYOTISHI, MEMBER(TECHNICAL)

FINAL ORDER NO.______/2023

Date of Hearing: 11.09.2023

PER R. MURALIDHAR

No one is present on behalf of the appellant. It is seen from the appeal papers that on several occasions, they were absenting themselves when the appeal was listed. It is also seen that hearing notices which were sent were returned by the Postal Department. This appeal pertains to the year 2012. In the interest of justice, we perused the appeal papers with the help of the learned A.R. In this case, the appellants have imported 42.410 MTs of goods declared as UBC aluminium. They filed their Home consumption Bill of Entry on 6/4/2009. On examination of the goods, it was revealed that the consignment pertains to plastic scrap containing chappals, broken computer cabinets etc. The Department observed that the imported plastic scrap falling under B3010 of part B of Schedule III of the Hazardous Wastes (Management Handling and Transboundry Movement) Rules 2008 can be imported only with the permission from the Ministry of Environment and Forests. However, in this Case, no permission was obtained. Vide order-in-original No. 22/2011 dated 5/12/2011, absolute confiscation was ordered in this case with an option to re-export the goods within 45 days. Penalty of Rs 20,000/- was imposed on the appellant. On appeal the Commissioner (Appeals) has dismissed the appeal. Being aggrieved, the appellants are before the Tribunal.

2. From the grounds of appeal, It is seen that appellant is not denying that the goods in question were plastic waste only. They have not made any submission to the effect that they have obtained any permission to import the same. In fact they have made a request that since the goods in question cannot be re-exported, they should be allowed to destroy the material under such conditions and restrictions as may be imposed by the Customs Authorities in consultation with the Pollution Control laws as applicable in India. This request from their side shows that they were fully aware that the goods in question were plastic materials only, but still they had declared the same as UBC aluminum while filing their Bill of Entry.

3. Commissioner(Appeals) in the order-in-Appeal has given a detailed order while dismissing the appeal. The relevant portion is extracted below:

> "5.2 From the available records <u>it is clear that the manipulation of the contents of the two containers was done before landing of the same in India. The goods imported were no doubt hazardous waste as found by the LAA and were sent intentionally from abroad although the LAA has ruled out the knowledge or involvement of the importer.</u> The appellant contended the order for re-export of impugned goods with a variety of reasons to exempt them from re-export of the imported goods but the fact remains that the impugned goods came in their account and they are the importers. <u>If such dumped goods are allowed into the country it would be equal to allowing such vested interests to succeed in their mal-intentions and I am afraid that it would encourage such elements to repeat the same in future also. Hence deterrent action is required to prevent such eventualities. Also as per Rule 17(2) of Hazardous Wastes Management Handling and Transboundary Movement Rules 2008, the importer shall have to re-export the waste in question at his cost within a period of ninety days from the date of its arrival in India. Therefore, I uphold the order of LAA in ordering re-export of the impugned goods."[Emphasis supplied]</u>

2. Going through the factual matrix and the statutory provisions we do not see any reason to interfere with the said order passed by the Commissioner (Appeals). Accordingly, we dismiss the present appeal.

(Order pronounced and dictated in open court)

(R. MURALIDHAR)
MEMBER (JUDICIAL)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

Neela Reddy