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

Division Bench

Court – I

Customs Appeal No. 2875 of 2012

(Arising out of OIA No.50/2012-VCH dt.26.07.2012 passed by Commissioner of Central Excise (Appeals), Visakhapatnam)

SNF India Pvt Ltd
Plot No.19, JN Pharma City, Ponnuru Village,
Visakhapatnam, AP – 531 021

……Appellant

VERSUS

Commissioner of Central Tax
Visakhapatnam
Port Area, Visakhapatnam,
Andhra Pradesh – 530 035

……Respondent

Appearance
Shri G.P. Sastry, Advocate for the Appellant.
Shri A. Rangadham, AR for the Respondent.

Coram:
HON'BLE MR. ANIL CHOUDHARY (JUDICIAL)
HON'BLE MR. A.K. JYOTISHI, MEMBER (TECHNICAL)

FINAL ORDER No. A/30432/2023

Date of Hearing: 21.12.2023
Date of Decision: 21.12.2023

[Order per: ANIL CHOUDHARY]

Heard the parties.

2. The issue involved in this Appeal is that the Appellant has imported various items to be used in their industry under Bills of entry with description/ declaration "instrument package", whether the same have been rightly classified under CTH 9032 instead of CTH 9026 as proposed by the Appellant.

3. Upon going through the two headings CTH 9026 & CTH 9032, we find that CTH 9026 deals with instruments which are simply for measuring a given parameter like pressure, temperature, etc.; whereas, CTH 9032 covers instruments which has dual functioning of reading and automatic regulation/control of the given parameters. From the Impugned Order, we find that the exact details as to the nature of each instrument in the package has

not been considered and we further find that Commissioner (Appeals) has not considered the instruments in detail and passed non-speaking Order, by simply relying on the Order-in-Original.

4. Upon hearing the parties, we deem it fit and proper to remand the matter to the Commissioner (Appeals), who is directed to call for the Adjudication Record and peruse the evidence on record and after hearing the Appellant and perusing any other additional evidence produced before him, shall pass a reasoned Order in accordance with law. It is explained by the Counsel for the Appellant that there is no entry called "instrument package" in the Customs Tariff and accordingly, the Court below may consider each and every item imported, according to its parameters and decide the classification.

5. We also direct the Appellant to appear before the learned Commissioner (Appeals) with a copy of this Order and seek opportunity of Hearing, within a period of 45 days from receipt of this Order.

(Dictated and pronounced in the Open Court)

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

Veda