

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH: KOLKATA**

Appeal No. C/217/2009

(Arising out of Order-in-Appeal No.Kol/Cus/CKP/91/2009 dated 26.02.2009 passed by the Commissioner of Customs (Appeals), Kolkata)

Commissioner of Customs (Preventive), W.B., Kolkata

Applicant (s)/Appellant (s)

Vs.

M/s. Pradeep International

Respondent (s)

Appearance:

Shri S.Guha, AC(AR) for the Appellant (s)

Shri Arijit Chakraborty, Advocate for the Respondent (s)

CORAM:

Hon'ble SHRI JUSTICE (DR.) SATISH CHANDRA, PRESIDENT

Hon'ble SHRI V.Padmanabhan, Member (Technical)

Date of Hearing/Decision:- 02.05.2018

ORDER NO. FO/75991/2018

Per Dr. Satish Chandra

1. The present appeal has been filed against the Order-in-Appeal No.Kol/Cus/CKP/91/2009 dated 26.02.2009.
2. The brief facts of the case are that the appellant imported readymade garments from Bangladesh through four bills of entry. The subject goods were declared as various tracksuits of different descriptions and were classified under CTH 6201 99 90. Duty was paid and department has accepted. However, at a later stage, department classified the goods under CTH 6204 33 00. Being aggrieved, the appellant has filed appeal before Commissioner (Appeals) who has

allowed the claim of the assessee. Now, not being satisfied, the department has filed the present appeal.

3. After hearing both sides and on perusal of record, it appears that total duty amount involved is Rs. 10,28,000/-. No penalty was warranted in the instant case.

4. In the instant case, sample was drawn after 2 ½ years and it was observed that the appellant has wrongly classified the goods but fact remains that by the time the goods became obsolete. At the time of clearance of the goods department has accepted the classification. From the record, it appears that for misdeclaration, department has not brought any evidence on record and declaration was made after 2 ½ years which is not justifiable.

5. In view of above, we decline to interfere with the impugned order and the same is hereby sustained alongwith reasons mentioned therein.

6. In the result, the appeal filed by the Revenue is dismissed.

(Dictated and pronounced in the Open Court)

S/d.
(Justice Dr. Satish Chandra)
President

S/d.
(V.Padmanabhan)
MEMBER (Technical)

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